

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 9 MARCH 2023

LAND BETWEEN CONDOR DRIVE AND KEPTIE ROAD, ARBROATH

REPORT BY THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT:

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission in principle for erection of two dwellinghouses application No 22/00176/PPPL at Land between Condor Drive and Keptie Road, Arbroath.

1. RECOMMENDATIONS

It is recommended that the Committee:-

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

2. ALIGNMENT TO THE ANGUS COUNCIL PLAN

This report contributes to the following outcomes contained within the Angus Council Plan:

- 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

Appendix 2 – Submission by Applicant

Appendix 3 – Further Lodged Representations

Appendix 4 – Applicant's Response to Further Lodged Representations

ANGUS COUNCIL'S SUBMISSION ON GROUNDS OF REFUSAL

APPLICATION NUMBER – 22/00176/PPPL

APPLICANT- CARSWELL PROPERTIES LTD

**PROPOSAL & ADDRESS – ERECTION OF TWO DWELLINGHOUSES AT LAND
BETWEEN CONDOR DRIVE AND KEPTIE ROAD ARBROATH**

CONTENTS

AC1	Report of Handling	
	Policy Tests (Angus Local Development Plan 2016)	
	<p>Policy DS1, DS3, DS4, TC2, PV2 & PV15</p> <p>Design Quality & Placemaking Supplementary Guidance – https://www.angus.gov.uk/media/design_quality_and_placemaking_supplementary_guidance</p> <p>Angus Local Development Plan https://www.angus.gov.uk/sites/default/files/Angus%20local%20development%20plan%20adopted%20September%202016.pdf</p> <p>Angus Local Development Plan – Proposals Map https://www.angus.gov.uk/sites/default/files/2021-09/Proposals%20Map.pdf</p> <p>NPF 4 https://www.gov.scot/publications/national-planning-framework-4-revised-draft/</p> <p>Advice Note 14 https://www.angus.gov.uk/media/small_housing_sites</p>	
	Consultation Responses	
AC2	Roads Traffic – 16.03.22 & 08.04.22	
AC3	Scottish Water – 18.03.22	
AC4	Parks – 03.05.22	

	Letters of Representations	
AC5	Ms Gillian Stewart - 28.03.22	
AC6	Mr Oana Henry - 02.04.22	
	Application Drawings	
AC7	Refused Location Plan	
AC8	Refused Drawings	
	Further Information Relevant to Assessment	
AC9	Site Photos	
AC10	Refused Decision Notice	
AC11	Link to 09/01112/FULL (referred to in the Report of Handling). https://planning.angus.gov.uk/online-applications/search.do?action=simple&searchType=Application	
AC12	Correspondence on application from applicant - E-mail with comments with agent - 30.04.22 & 13.05.22	
	Supporting Information	
AC13	Design Statement	

Angus Council

Application Number:	22/00176/PPPL
Description of Development:	Erection of Two Dwellinghouses
Site Address:	Land Between Condor Drive And Keptie Road Arbroath
Grid Ref:	362743 : 741680
Applicant Name:	Carswell Properties Ltd. John Carswell

Report of Handling**Site Description**

The site measures around 540 sqm and is located on an area of land between Condor Drive and Keptie Road. A small path is located to the south with housing beyond this and an area of amenity open space is located to the north. Housing is located to the east and west beyond the public roads. The area is enclosed by fencing and the soil has been stripped, but until that point it formed part of the larger open space to the north.

Proposal

The proposal seeks planning permission in principle for the erection of two dwellinghouses on the site. An indicate layout plan shows two, 2-storey houses provided in a semi-detached form. Vehicular access would be taken from Condor Drive to the west. The application form indicates that the proposal would connect to the public drainage and water supply and that SUDS would be provided.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 18 March 2022

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

Planning History

[09/01112/FULL](#) for Planning Permission for the Erection of Two Dwellinghouses was determined as "Refused" on 31 March 2010. The application was refused for the following reasons: -

- 1 That the proposed development would not lead to the creation of a satisfactory residential environment by virtue of the relationship of the proposed rear amenity areas to Keptie Road which is an A Class Distributor Road. As such the proposal is considered to be contrary to Policy S1, Policy SC2 and Policy S6 in the Angus Local Plan Review.
- 2 That the proposed form of development would be at odds with the general character and

pattern of development of the area by virtue of the type of dwellings proposed, the siting and orientation of those buildings on the site and the use of an existing characteristic amenity green space as building plots. The proposal is therefore considered to be at odds with Policy S1 and S3 in the Angus Local Plan Review.

- 3 That the proposed development fails to provide for 100 sqm of useable private garden ground per dwelling and would not maintain the residential amenity and privacy of adjoining housing and is therefore considered to be at odds with Policy SC2 and Policy S1 in the Angus local Plan Review.
- 4 That the proposed development would take place on an existing area of amenity green space which is considered to be of amenity value however the development is not necessary to achieve a retention or enhancement of that green space and there is no proposal to provide a community benefit through the provision of an alternative green space elsewhere locally. Additionally there is no evidence to suggest that there is an over provision of such green spaces locally. The proposal is therefore considered to be contrary to Policy SC32 and Policy S1 in the Angus Local Plan Review.

That decision was subject of a review to the Development Management Review Committee (DMRC) in June 2010. The DMRC dismissed the review and refused planning permission. The DMRC concluded that the proposed layout and density of the development was out of character with the existing pattern of development in the area, and that the loss of open space would be detrimental to the appearance of the area. It also concluded that the level of private amenity space was considerably less than that advised in Advice Note 14 and that there would be amenity impacts on existing dwellings.

Furthermore, the DMRC determined that the applicant had not justified the loss of open space within the context of any of the tests set by Policy SC32, Open Space Protection. The DMRC was of the opinion that loss of any part of the open space would be detrimental to the character and appearance of the area.

Applicant's Case

Planning And Design Statement:

- Describes the site location;
- Notes that the design will be considered as part of a detailed application but that they will be able to be integrated into the surrounding environment;
- Describes site history and that the areas originally formed part of the MOD estate with other areas previously developed;
- Planning history - notes that Application 09/01112/FULL for the erection of two detached dwellinghouses was refused on 31st March 2010. A subsequent appeal was dismissed by the Local Review Body. In the report of handling, officers noted that: the application was on part of an area of amenity green space, that amenity space forming a usable landscape strip that contributes to the wider area and serves as a useful buffer between the existing houses and Keptie Road; no proposals have been tabled for a replacement of the open space elsewhere; the residential environment that would be created for the units would be sub-standard; potential disturbance from traffic on Keptie Road; the proposal was for two free standing units whereas the immediate vicinity of the site is characterised by terraced two storey dwellings and semi-detached two storey dwellings therefore there was no clear relationship between the proposed form of development and the existing form of development; and impact on existing residential amenity of neighbouring properties;
- Refers to policies and land use considerations and states that the land does not constitute publicly accessible and usable amenity green space. Indeed, it is identified as white land within the ALDP. Whilst the land directly to the north has the appearance of a common grassed amenity area, it is in joint private ownership and maintained as such. States that the application

site is in individual private ownership with no rights of common access, is fenced off from the shared area to the north and is not grassed. It is therefore differentiated from the shared ownership area through clear boundary demarcation, character, land use and ownership. The site does not therefore fall to be considered under ALDP Policy PV2 Open Space Protection;

- States that the site is not protected for another use and that the proposal is consistent with the character and pattern of development in the surrounding area;
- The application site covers an area of 539.8 sqm. The proposed plot sizes and garden ground and other criteria as stipulated by Advice Note 14 - Small Housing Sites have been complied with.
- In conclusion, the statement suggests the site is appropriate for residential redevelopment in principle and the submitted indicative layout shows how the site could potentially be developed. It is therefore considered entirely appropriate for planning permission in principle to be granted for two residential units with relevant conditions regarding matters of siting, design, access and boundary treatment.

Consultations

Parks & Burial Grounds - Confirmed the site is part of an area of open space bound by Keptie Road to the east and Condor Drive to the west. Stated that although the ground has been cleared in recent times it is apparent that the site has been used as amenity open space at least until April 2021, with football goals being present on this area of grass. It has also been maintained as open space up to that time and no alternative spaces are available in the vicinity. Stated that this ground should remain in use as open space

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

Roads (Traffic) - No objections subject to various conditions including a scheme of improvements to Condor Drive being submitted and approved. The scheme of improvement should include for carriageway widening and footway re-alignment ex-adverso the site. It has indicated that an existing advance directional road sign, located on Keptie Road but partially within the site must remain unaffected by any development of the site.

The Roads Service confirmed that the indicative driveway to the southernmost plot intersects Condor Drive at an acute angle and due to the narrowness of the carriageway of Condor Drive access and egress to this driveway by vehicles would be compromised. It has advised that, if approved, full details of the access proposals should be provided to demonstrate that access and egress to the plots would be safe and suitable.

Scottish Water - No objection.

Representations

Two letters of representation offering general comment were submitted.

The main points raised were as follows:

- Development should be residential rather than commercial;
- Lack of information submitted (to assess amenity impacts) to make full decision;
- Access to the site should be from Keptie Road as a lot of children play in the area;
- Possible impacts on parking;
- Possible road safety matters due to nature of the existing road and works required to upgrade

the road.

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 PV15 : Drainage Infrastructure

TAYplan Strategic Development Plan

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

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

Assessment

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

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. It also states that 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.

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 specifically states that development involving the loss of open space (**including smaller spaces not identified on the Proposals Map**) will only be permitted where: -

- the proposed development is ancillary to the principal use of the site as a recreational resource; or
- 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
- 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
- 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.

The narrative associated with the policy states that '*whilst the ALDP identifies principal open spaces on the Proposals Map, the policy will apply to all open space areas within development boundaries including other smaller spaces which may not be shown on a map*'. It further states that the intent of the policy is to protect open spaces from development which might erode the function or characteristics for which they are valued. The policy aims to ensure that where development is proposed the loss is justified and that compensatory provision is made.

The land has been used as amenity open space over a significant period of time and this is clearly evidenced in available photographic images. Publicly available online digital imagery confirms the area was in grass and open for public use between August 2008 and April 2021. Images during that period demonstrate the presence of goalposts on the land and demonstrate its use as open space. The land has been in use as amenity open space for a period in excess of 10 years and such use is likely to represent the lawful use. While a fence has been erected and soil stripped, no planning permission has been granted to allow change of use of the land. In terms of this planning application the site must be considered as open space/ amenity green space and this approach is consistent with the planning history, including the application previously refused in 2010. The council's DMRC has previously determined that the site is a valuable open space amenity area, and that position continues to be supported by the council's parks service. The recent erection of fencing to exclude access to the area does not mean that the provisions of policy PV2 should no longer be applied; accepting such an approach would undermine the purpose and intent of the policy.

In this case: -

- the proposed development is not ancillary to the principal use of the site as a recreational resource;
- the applicant has not provided any information or open space audit or strategy to demonstrate that there is an excess of open space of this type in the area. The council's parks service has raised concern regarding the loss of this area given available resource in the wider area, and loss of the area has been an issue in terms of previous planning decisions;
- there is no evidence to suggest that redevelopment would result in retention or enhancement of the wider open space. The DMRC has previously determined that the loss of any part of the open space would be detrimental to the character and appearance of the area.
- the proposal makes no provision for replacement open space within the local area.

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 DS1 of the ALDP as it involves development on greenfield land in a manner that is not compatible with other policies of the plan, and where there are other sites within the development boundary of Arbroath that are capable of accommodating the development of two houses.

Policy TC2 of the ALDP deals specifically with proposals for new residential development. It indicates that proposals within development boundaries will be supported where the site is not allocated or protected for another use, and where the proposal is consistent with the character and pattern of development in the surrounding area. In this case, and as discussed above, the application site is protected open space by virtue of policy PV2; it is protected for open space use. On this basis, the principle of residential development on the site is not consistent with policy TC2.

Policy TC2 also indicates that all proposals for new residential developments must be compatible in terms of land use; provide a satisfactory residential environment; not result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and 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, Advice Note 14 indicates that plots should generally be a minimum of 400sqm, but also indicates that in areas of high density and where small plots are characteristic, or for some semi-detached houses, a lower minimum of 350sqm may be acceptable. In this case the total site area measures around 540sqm and therefore plots would be in the region of 270sqm. The indicative layout plan suggests the plots could provide around 100sqm of private garden ground and that they could accommodate parking for two cars. However, the developable area might be reduced by any necessary improvements required to Condor Drive, and the private garden areas would back onto Keptie Road. Privacy for the identified rear garden areas could only be achieved through the provision of high boundary enclosures adjacent to the Keptie Road footway. This matter is addressed further below. It is relevant to note that the upper floor windows of properties to the south would overlook the private garden area of the southernmost plot at a distance of around 9m which represents the very minimum separation distance required by design guidance; the normal standard is 12m.

The proposal would result in the loss of amenity open space in an existing residential area. That open space adds to the amenity of the area, and it provides opportunity for social interaction and physical activity. The functionality of the area and its useability would be significantly reduced if this section, which benefits from natural surveillance from neighbouring properties, was lost. The reduction in open space which is a characteristic feature of the area would reduce the amenity of existing residents.

The nature of the site is such that private garden areas could only be provided if they were screened from surrounding public areas by high boundary enclosures. That approach is generally not consistent with the council's design quality and placemaking supplementary guidance which promotes outward facing perimeter block development and which states that *large areas of fencing or blank elevations will not be acceptable where they form a public/private interface*. There are examples of private garden areas backing on to public areas and routes in the area, and those demonstrate why development that requires that approach should be avoided. Such an arrangement would be an inevitable consequence of housing development on this site. The proposal would not improve the character of the area and the reduction in open space would not improve the safety or pleasantness of the area.

In terms of access and parking arrangements, the roads service has raised no objections subject conditions relating to road improvements and the proposal does not give rise to significant issues in terms of the remaining criteria of policy TC2.

While the proposed house plots may be comparable in size with others in the area, they would be below minimum plot sizes required by council design guidance. Relaxation of those normal standards might be acceptable where the development would otherwise be acceptable. However, this proposal would remove open space to the detriment of the amenity of existing residents; the southernmost plot would be overlooked by neighbouring property; and the formation of enclosures necessary to provide private garden areas would detract from the visual amenity of the areas. The proposal fails to meet recognised spatial standards in terms of plot

size and is otherwise generally only capable of meeting minimum spatial standards in circumstances where it would detract from the existing amenity of the area. The proposal is contrary to policies DS3 and TC2 and is not consistent with design and placemaking supplementary guidance.

The principle of the development on the application site is contrary to policies DS1, DS3, TC2 and PV2 of the ALDP for the reasons set out above.

In addition to the development plan, other material considerations have also been taken into account. In this case those are the relevant planning history, the planning matters raised in representation and in the applicant's supporting information, in so far as they have not been addressed above, and Scottish Planning Policy (SPP).

In terms of planning history, it is evident that the site has been used as amenity open space for a considerable period of time. A previous planning permission for two houses on this site was refused and that decision was supported by the council's Development Management Review Committee. The DMRC was clear that residential development on this land was contrary to council policy and not acceptable. While the policy environment has changed in the intervening period, the general purpose and intent of those policies has not changed materially. The policies continue to seek to ensure that open space is protected from development, and that new residential development provides a good living environment and deliver a high design standard. While the area has now been fenced and stripped of grass, the characteristics of the site remain otherwise largely unchanged. The fundamental issue regarding the incompatibility of this proposal with development plan policy, and the unacceptability of the loss of open space remain unchanged since the previous application was refused. The previous refusal merits some weight in the decision-making process.

The matters raised in representation are noted, but the application is for housing development and it suggests access would be taken from Condor Drive. Issues regarding the acceptability of the principle of development and the proposed access arrangements are addressed above. If planning permission was granted, a further application or applications would be required for approval of detailed matters to allow further consideration of the proposal.

In relation to the supporting information provided by the applicant, land ownership is not a material planning consideration. The erection of a fence to prohibit public access does not change an area's lawful use and it does not alter the relevance of policies that are designed to safeguard open space. Accepting such an approach could pose a significant threat to other privately owned open space areas throughout Angus.

Paragraph 33 of SPP 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 remains up-to-date but the ALDP is more than 5-years old as it was adopted in September 2016. The proposal would meet some of the principles identified in SPP as contributing towards sustainable development. However, the development of greenfield, open space in an existing residential area would not make efficient use of land; it would not reduce opportunities for social interaction and physical activity; it would not protect, enhance or promote access to natural heritage, including green infrastructure; and reducing available open space would not protect the amenity of existing development. The proposal would not, in overall terms, be considered to be sustainable development and it would not find support from SPP. The harm associated with the proposal would be permanent and significantly and demonstrably outweigh the benefit associated with the provision of two new houses.

In conclusion, the erection of houses on amenity open space is contrary to development plan policy. That conclusion is consistent with previous decisions taken in relation to this site. In addition, the proposal would not provide a good living environment and the loss of amenity open space would adversely affect the amenity enjoyed by existing residents in the area. The proposal is contrary to development plan policy and there are no material considerations that 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, DS1 and TC2 of the Angus Local Development Plan because it would involve development on and loss of protected amenity open space.
- 2 The proposal is contrary to policy TC2 of the Angus Local Development Plan because it would not provide a satisfactory residential environment for future occupants by virtue of the limited plot size and relationship to neighbouring property and land uses, and as it would adversely affect the amenity of existing residents and detract from the natural environment of the area through the reduction in available open space.
- 3 The proposal is contrary to Policy DS3 of the Angus Local Development Plan and its associated design quality and placemaking supplementary guidance because it would result in a form of development that would not contribute positively to the character and sense of place of the area as it would remove characteristic open space and as it would require provision of high boundary enclosures as an interface with public areas.
- 4 The proposal is contrary to Policy DS1 of the Angus Local Development Plan because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2, DS3 and PV2 and the adopted the design quality and placemaking supplementary guidance.

Notes:

Case Officer: James Wright

Date: 3 October 2022

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 PV15 : Drainage Infrastructure

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

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

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

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

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

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

ANGUS COUNCIL

PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

22/00176/PPPL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

16	03	22
----	----	----

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

ELECTRONIC SUBMISSION DRAWINGS TO BE VIEWED VIA IDOX

Memorandum

Infrastructure Roads & Transportation

TO: DEVELOPMENT STANDARDS MANAGER, PLANNING

FROM: TRAFFIC MANAGER, ROADS

YOUR REF:

OUR REF: CH/AG/ TD1.3

DATE: 08 APRIL 2022

SUBJECT: **PLANNING APPLICATION REF. NO. 22/00176/PPPL – PROPOSED
ERECTION OF TWO DWELLING HOUSES AT CONDOR DRIVE, ARBROATH**

I refer to the above planning application which is on the site of a previously refused application reference number 09/01112/FULL.

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 the south side of Condor Drive on the outside of a bend in the road. The carriageway of Condor Drive is slightly narrow (approx. 4.7m) for the free flow of two-way traffic. The 2009 proposal recognised the narrowness of the carriageway of the road and included a slight widening and realignment of the adjacent footway over the full length of the site frontage.

An existing advance directional road sign, located on Keptie Road, is partially sited within the site. This sign must remain unaffected by any development of the site.

The indicative driveway to the southernmost plot intersects Condor Drive at an acute angle. Due to the narrowness of the carriageway of Condor Drive and this acute angle, access and egress to this driveway by vehicles will be compromised. If approved, full details of the access proposals to this plot should be provided with any subsequent application for matters specified. Those details should adequately show that access and egress to the driveway will be easily gained by vehicles. Those details should include the provision of a swept path drawing for approval.

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 development, a scheme of improvements to Condor Drive site shall be submitted for the consideration of the planning authority. The scheme of improvement shall include for carriageway widening and footway re-alignment ex-adverso the site. The development shall not commence until the planning authority has agreed the scheme of improvements in writing. The scheme of improvements shall thereafter be completed prior to the occupation of any dwelling house hereby approved.
Reason: to provide a safe and suitable standard of access and to maintain free traffic flow on the public road.
- 2 That, prior to the commencement of development, detailed plans and particulars shall be submitted for the consideration of the planning authority to show that access and egress to/from the driveway at the southernmost plot can be easily afforded to motor vehicles. [This can be by way of a plan showing the swept path of vehicles].
Reason: to ensure provision of a safe and suitable standard of vehicular access.
- 3 That, the advance directional road sign located on Keptie Road, and partially erected within the site, shall not be removed, relocated, or altered in any way by the development of the site.
Reason: to ensure roads infrastructure is not adversely affected by the development.
- 4 That, car parking spaces shall be provided within each plot curtilage in accordance with the National Roads Development Guide (SCOTS).
Reason: to ensure that suitable parking arrangements are provided so that free traffic flow is maintained on the public road.
- 5 That, the access driveways 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 driveways if levels fall towards the road.
Reason: to prevent the flow of surface water onto the public road in the interests of traffic safety.
- 6 That, prior to the commencement of development, plans and particulars of all details relating to access; road layout design; specification and construction, including the provision of surface water drainage shall be submitted for consideration by the planning authority. The development shall not commence until the planning authority has agreed the details in writing. The works shall thereafter be completed in accordance with the approved details prior to the occupation of any dwelling house hereby approved.
Reason: to ensure a satisfactory standard of road construction.

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



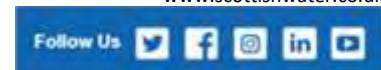
Friday, 18 March 2022



Local Planner
 Planning Service
 Angus Council
 Forfar
 DD8 1AN

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

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



Dear Customer,

Land Between Condor Drive And Keptie Road, Arbroath, DD11 3EP
Planning Ref: 22/00176/PPPL
Our Ref: DSCAS-0060744-D3Q
Proposal: Erection of Two Dwellinghouses

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 the Lintrathen 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

- ▶ 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.

Asset Impact Assessment

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

- ▶ 1 x 300mm combined sewer

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team via [our Customer Portal](#) to apply for a diversion.

The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction. Please note the disclaimer at the end of this response.

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-Domestic 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

launderettes. 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,

Angela Allison

Development Services Analyst

PlanningConsultations@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."

From:Jutta Scharnberger
Sent:3 May 2022 08:58:10 +0100
To:James Wright
Subject:FW: Planning Application Consultation 22/00176/PPPL
Attachments:ufm10_E-mail_-_Standard_Consultation.pdf

Good morning James,

Regarding the above application we have got following comments:

The site is part of an area of open space bound by Keptie Road to the east and Condor Drive to the west. Although the ground has been cleared in recent times it is apparent that the site has been used as amenity open space at least until April 2021, with football goals being present on this area of grass. It has also been maintained as open space up to that time and no alternative spaces are available in the vicinity. We therefore believe this ground should remain in use as open space.

Regards
Jutta

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

Remember FACTS: Face coverings, Avoid crowded places, Clean hands regularly, Two metre distance,
Self isolate and test if you have symptoms

Follow us on Twitter
Visit our Facebook page
Think green – please do not print this email

-----Original Message-----

From: PLNProcessing@angus.gov.uk <PLNProcessing@angus.gov.uk>
Sent: 16 March 2022 08:41
To: Jutta Scharnberger <ScharnbergerJ@angus.gov.uk>
Subject: Planning Application Consultation 22/00176/PPPL

Please see attached document.

Comments for Planning Application 22/00176/PPPL

Application Summary

Application Number: 22/00176/PPPL

Address: Land Between Condor Drive And Keptie Road Arbroath

Proposal: Erection of Two Dwellinghouses

Case Officer: James Wright

Customer Details

Name: Ms Gillian Stewart

Address: 13 Condor Drive Arbroath

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: Whilst I have no specific objections to the erection of the properties, the road into Condor Drive is not sufficient as it is. Since the erection of the commercial units (Dominos and Kohen-noor), there have been numerous times where children have been almost hurt in car accidents, pets killed by the traffic and damage to parked vehicles. The road is not wide enough to accommodate the commercial vehicles that visit the commercial units. Both these vehicles and the bin lorry require to drive on the verges which are now ruined. Major works are required to the access roadway before it can accommodate any more traffic.

Comments for Planning Application 22/00176/PPPL**Application Summary**

Application Number: 22/00176/PPPL

Address: Land Between Condor Drive And Keptie Road Arbroath

Proposal: Erection of Two Dwellinghouses

Case Officer: James Wright

Customer Details

Name: Mr Oana Henry

Address: 2 Condor Drive ARBROATH

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

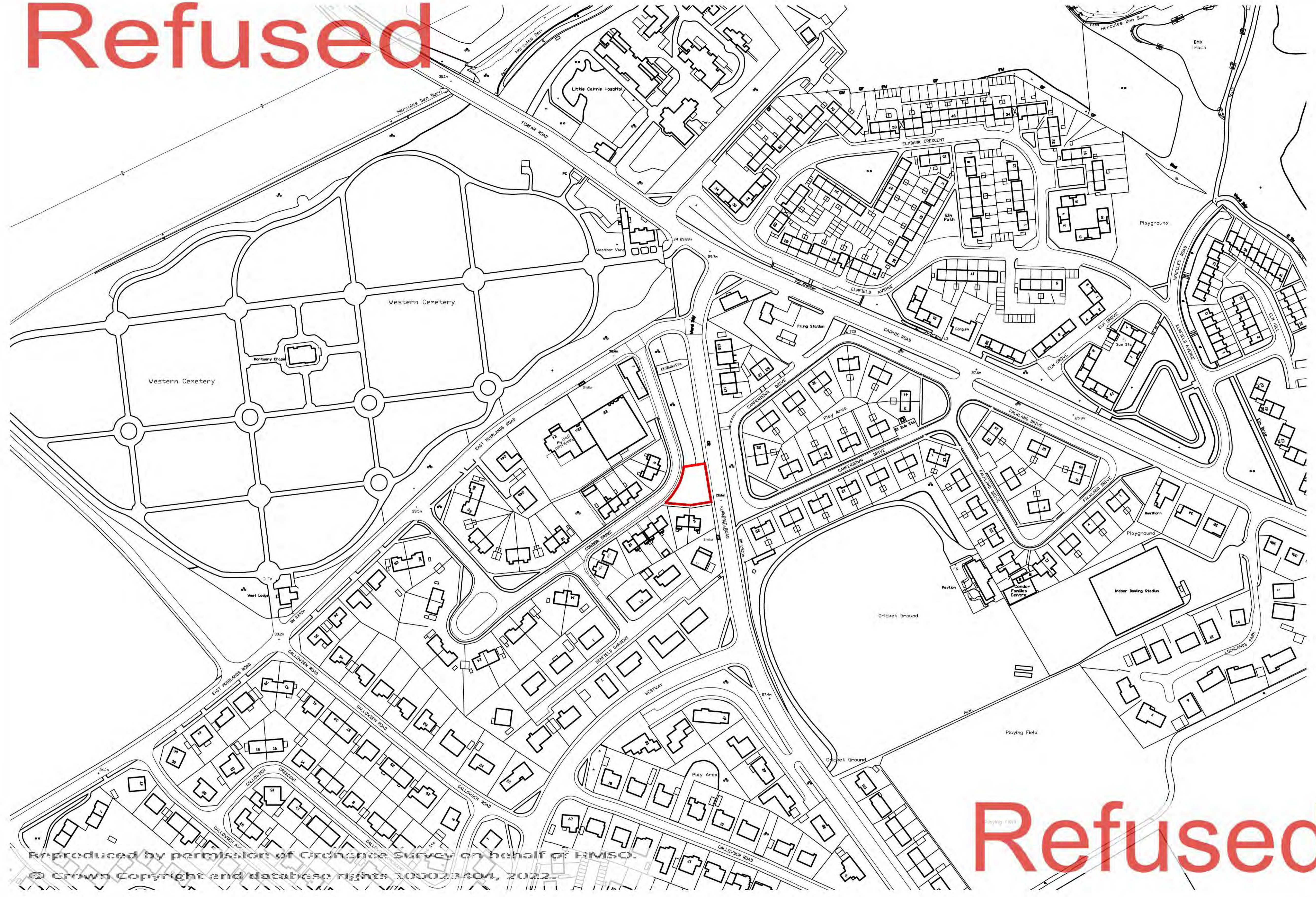
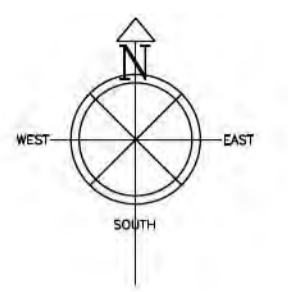
Comment: Ever since the grass was removed and a fence was put up on this site within the last 10 months I knew that planning permission was going to be looked for and believe that it should be residential rather than commercial as it keeps to the buildings in the surrounding area however : There is not enough information presented for me to make a decision on supporting or objecting to this. If the design of the building affects my privacy or overshadows my living space then I would be affected and I would object but there is no information on this, so how can I possibly make a decision.

Consideration should be giving to the following points also whilst building:

Access to site should not be from Condor Drive and should be from Keptie Road as a lot of children play in this area and should not affect parking of local residents either.

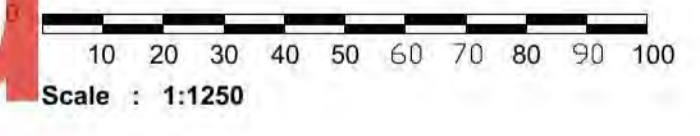
Apart from that these points I have nothing else to add.

Refused



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Refused



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Mr. J. Carswell
Carswell Properties Ltd.
Newmains
Duncan Avenue
Arbroath

Proposed New Housing
Condor Drive
Arbroath
Angus

Location Plan

SCALE 1:1250 @ A1
CAD FILE 1317
DATE December 2021
DRAWN BY GB

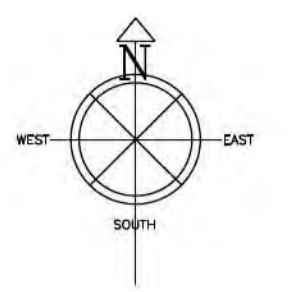
@rchitects

15 West High Street
Forfar, Angus
DD8 1BE

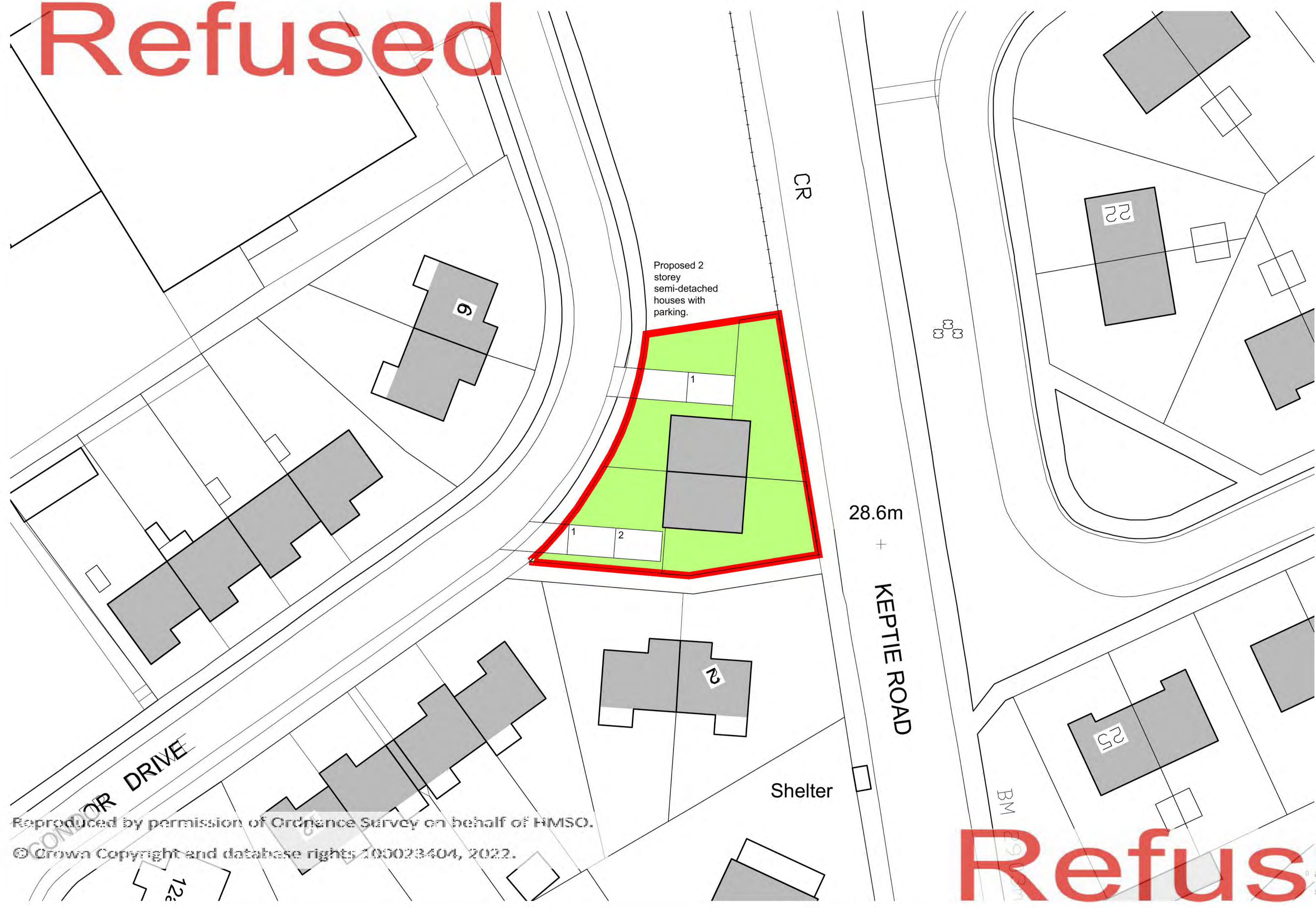
1317 / LP / 01

Tel: 01307 466480
Email: admin@rchitects.org.uk

DWG NO.



Refused



Proposed 2 storey semi-detached houses with parking.

28.6m

KEPTIE ROAD

Shelter

Refused

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Mr. J. Carswell
Carswell Properties Ltd.
Newmains
Duncan Avenue
Arbroath

Proposed New Housing
Condor Drive
Arbroath
Angus

SCALE 1:200 @ A1
CAD FILE 1317

DATE December 2021
DRAWN BY GB

Proposed Site Plan

DRAWING TITLE

@rchitects

15 West High Street
Forfar, Angus
DD8 1BB

1317 / PD / 01

Tel: 01307 466480
Email: admin@rchitects.org.uk

DWG NO.

Aerial

United Kingdom > Scotland > Angus > Arbroath

AC9



Andy Godfrey
Personal Training &...

Camperdown Drive

Keptie Road

A933

Condor Drive

Condor Drive

Camperdown Drive

Feedback

50 feet 10 m

© 2022 TomTom. Image courtesy of Ordnance Survey

East Muirlands Road

Condor Drive

Camperdown Drive

Camperdown Drive

Keptie Road

Condor Drive

4 Condor Drive,
Arbroath, DD11 3EP



Ram's Head

Condor Drive

Condor Drive

East Muirlands Road

Keptie Road

Keptie Road

A933

Keptie Road

Campdown Drive

Campdown Drive

Elm...

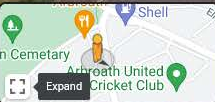
9 Condor Dr

Arbroath, Scotland

Google

Street View - Aug 2016

AC9



Google

13 Condor Dr
 Arbroath, Scotland

Google

Street View - Aug 2016

AC9



Shell

Arbroath United Cricket Club

Expand

Google

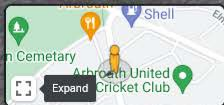
46 Keptie Rd

Arbroath, Scotland

Google

Street View - Apr 2021

AC9



Google

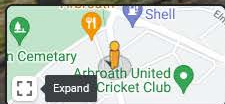
46 Keptie Rd

Arbroath, Scotland

Google

Street View - Apr 2021

AC9



89 Keptie Rd

Arbroath, Scotland

Google

Street View - Dec 2021

AC9



Google

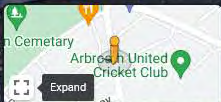
74 Keptie Rd

Arbroath, Scotland

Google

Street View - Dec 2021

AC9



Google

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



PLANNING PERMISSION IN PRINCIPLE REFUSAL
REFERENCE : 22/00176/PPPL

To Carswell Properties Ltd. John Carswell
c/o @rchitects Scotland Ltd
Paul Fretwell
50 Castle Street
Forfar
DD8 3AB

With reference to your application dated 11 March 2022 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

Erection of Two Dwellinghouses at Land Between Condor Drive And Keptie Road Arbroath for Carswell Properties Ltd. John Carswell

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

The reasons for the Council's decision are:-

- 1 The proposal is contrary to policies PV2, DS1 and TC2 of the Angus Local Development Plan because it would involve development on and loss of protected amenity open space.
- 2 The proposal is contrary to policy TC2 of the Angus Local Development Plan because it would not provide a satisfactory residential environment for future occupants by virtue of the limited plot size and relationship to neighbouring property and land uses, and as it would adversely affect the amenity of existing residents and detract from the natural environment of the area through the reduction in available open space.
- 3 The proposal is contrary to Policy DS3 of the Angus Local Development Plan and its associated design quality and placemaking supplementary guidance because it would result in a form of development that would not contribute positively to the character and sense of place of the area as it would remove characteristic open space and as it would require provision of high boundary enclosures as an interface with public areas.
- 4 The proposal is contrary to Policy DS1 of the Angus Local Development Plan because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2, DS3 and PV2 and the adopted the design quality and placemaking supplementary guidance.

Amendments:

The application has not been subject of variation.

Dated this **4 October 2022**

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.

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 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 Centre
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.

From:James Wright

Sent:30 Apr 2022 08:30:30 +0100

To:Paul Fretwell

Subject:RE: 22/00176/PPPL - Erection of Two Dwellinghouses at Land Between Condor Drive And, Keptie Road, Arbroath

Mr Fretwell,

Thank you for your e-mail and I apologise for the delayed response.

Whilst I note your comments regarding ownership, this unfortunately does not change the policy position on this. The area has been used as amenity greenspace and the proposal would result in the loss of this.

Notwithstanding the discussions relating to amenity greenspace, the impacts on the character and appearance of the area, amenity etc still remain with the current proposal. Unfortunately we will not be in a position to support this application and intend to progress to determination.

If you want to give me a call I am happy to discuss this in more detail.

Regards

James Wright | Planning Officer (Development Standards) | Angus Council | 01307 492629 |
WrightJ@angus.gov.uk | www.angus.gov.uk

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Think green- please do not print this email

From: Paul Fretwell <paul@rchitects.org.uk>

Sent: 15 April 2022 14:16

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

Subject: 22/00176/PPPL - Erection of Two Dwellinghouses at Land Between Condor Drive And, Keptie Road, Arbroath

Hi James

Thanks for the email. I understand the client has now made payment of the advertisement fee.

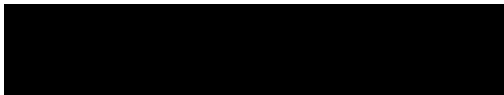
We have already demonstrated with reference to the deeds that this privately owned plot, now being proposed for development, is not and was never intended to be public open space; rather a plot for future development and the differing individual ownership nature of this plot over that of the multiple ownership ground to the north also reflects this. This is something I don't think was appropriately covered as part of the previous application and should have a significant bearing on this applications assessment.

Just because an owner of vacant ground is responsible enough to arrange suitable maintenance and has previously chosen not to demark their legal boundary should not mean that an arbitrary decision can be made, without any justification or due process, for the plot to be suddenly classed as public open space. The precedence this sort of decision process sets will not encourage other such owners to maintain areas of such ground and will encourage areas of Angus to be blighted by such sites. The term public open space implies a right for the public to use such ground and there are no such rights afforded to this plot of ground for either individuals or communities. I am aware of the reference you are highlighting relating to small areas of ground that are not defined. This relates to small areas, which this plot is not;

and we consider the intention behind this relates to providing appropriate protection to areas of ground originally designed as green areas / landscape space as part of overall development, e.g. verges, landscape areas etc. which more recently have tended to be approved with appropriate management requirements in place. This does not relate to this plot.

It would be useful to discuss this matter further before any formal conclusion is reached and would be grateful if we would arrange a Teams meeting when appropriate.

Regards



for @rchitects Scotland Ltd.

50 Castle Street, Forfar, DD8 3AB

Mob. 

Tel. 01307 466480

www.scotland-architects.co.uk



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

Sent: 12 April 2022 10:38

To: Paul Fretwell <paul@rchitects.org.uk>

Subject: 22/00176/PPPL

Erection of Two Dwellinghouses at Land Between Condor Drive And, Keptie Road, Arbroath

Mr Fretwell,

I refer to the above application. I have now reviewed all of the information submitted. Unfortunately my initial view is that the proposal is considered to be contrary to policy and will be progressed to determination on this basis.

I have noted that the £100 advert fee is still outstanding on this application and would be grateful if you could arrange for this to be paid as soon as possible.

Policy PV2 (open space protection and provision within settlements) of the Angus Local Development Plan (ALDP) indicates that 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 in certain circumstances. The current application site is a smaller area of open space not identified on proposals maps.

The permitted circumstances identified are referred to below:

- the proposed development is ancillary to the principal use of the site as a recreational resource; or

- 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
- 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
- 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.

Unfortunately it does not appear that the current proposal would not meet any of these requirements.

Planning History:

As you are aware there was a previous refusal on this site for a similar proposal (09/01112/FULL refers) and this was also dismissed by the Development Management Review Committee (DMRC).

Concerns were raised in the previous application (09/01112/FULL) relating to land use compatibility (proximity of the site to the distributor road - existing landscape strip provides a reasonable buffer), sub standard amenity, development at odds with the character and pattern of development in the area and loss of amenity greenspace.

Whilst I appreciate that there are some differences with your current proposal and that this is for planning permission in principle (PPPL) only at this stage, the fundamental concerns with the loss of open space, impacts on the character and appearance of the area, amenity etc still remain with the current proposal in terms of the current policies of the ALDP (DS3, DS4, TC2 and PV2).

In summary, whilst I have noted all of the supporting information submitted, there are concerns with the loss of this area of open space and impacts referred to above. We intend to progress the application to determination on this basis.

Should you want to withdraw the application prior to determination, please let me know within 7 days from the date of this e-mail. After this date I intend to progress the application to determination. Please also ensure that the £100 advert fee is paid as soon as possible.

Regards

James Wright | Planning Officer (Development Standards) | Angus Council | 01307 492629 |
WrightJ@angus.gov.uk | www.angus.gov.uk

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Think green- please do not print this email

From:Paul Fretwell

Sent:13 May 2022 09:25:51 +0100

To:James Wright

Subject:22/00176/PPPL - Erection of Two Dwellinghouses at Land Between Condor Drive And, Keptie Road, Arbroath

Importance:High



13 May 2022

Hi James

Further to becoming aware of the letter posted on the planning portal on Wednesday (11^h), dated the 3rd May from Jutta Scharnberger of the councils landscape services department. Firstly, we feel we must comment on the unusual lateness of this response to this planning application which attempts to support the misconception that this site is public open space.

In response to the contents of the letter. This is not open space; it was never intended or designed as part of the surrounding housing development as open space; all as demonstrated previously through reference to the nature of ownership and the title and sale of the land by the MOD; which was as part of 3 plots for development. Additionally no application has ever been made to alter this to open space. The comment with regard to football goals implies the removal of a fixed facility relating to the site. This is misleading. A small set of domestic demountable

goals were in the past placed on the ground by children and were removed from the site by the owner once they became aware of it. As discussed previously, this was also in direct response to the land owner being asked by both the police and also by the operator of the adjacent substation to put a stop to the children, who had recently started playing football on the site, due to severe safety concerns. The statement made by landscape services saying the grass has been maintained as open space is equally misleading; implying maintenance by the council as open space. This is quite simply not the case. The client had previously made suitable arrangements for the grass to be cut as part of regular seasonal maintenance in order not to cause neighbour issues and blight the area. See previous comments. For clarity, neither the Council nor the parks or landscape department have any rights, involvement or interests in this site.

It is worth also noting that the only public comments made in relation to this application are 2 comments from nearby properties which do not object to the principle of developing the site.

Regards



for @rchitects Scotland Ltd.

50 Castle Street, Forfar, DD8 3AB

Mob. [REDACTED]

Tel. 01307 466480

www.scotland-architects.co.uk



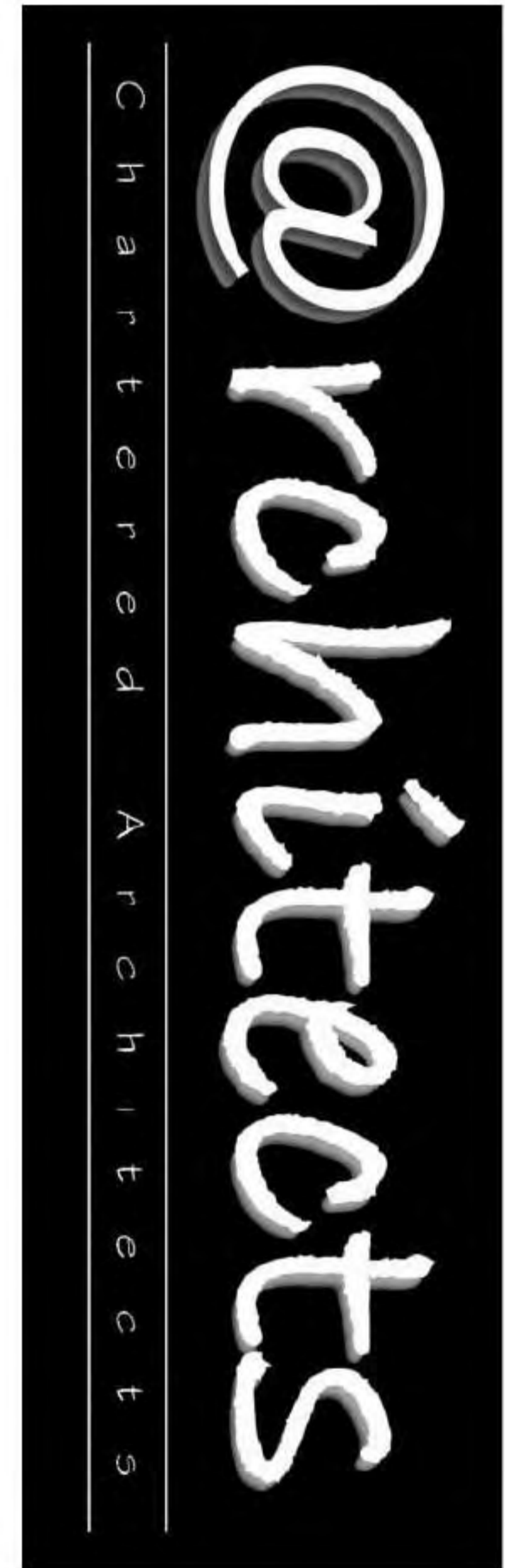
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CONDOR DRIVE, ARBROATH, ANGUS
PROPOSED NEW SEMI-DETACHED HOUSES

February 2022



DESIGN STATEMENT



STATEMENT SUPPORTING OUTLINE PLANNING APPLICATION

Introduction

The site is located off Condor Drive in an established housing area within the settlement boundary of Arbroath.

While the detailed design of the proposed semi-detached houses will be subject to further scrutiny by way of appropriate condition, the initial design approach is for two semi detached, two storey residential properties similar to those in the immediate vicinity. An indication of the size and positioning is marked on the submitted drawings and the units will be of a modern and efficient design. Due to the sites location within predominantly residential environs, it is considered that the proposals will integrate well with the existing urban form. There are also good public transport and pedestrian / cycle links providing convenient access to local services and recreation opportunities.

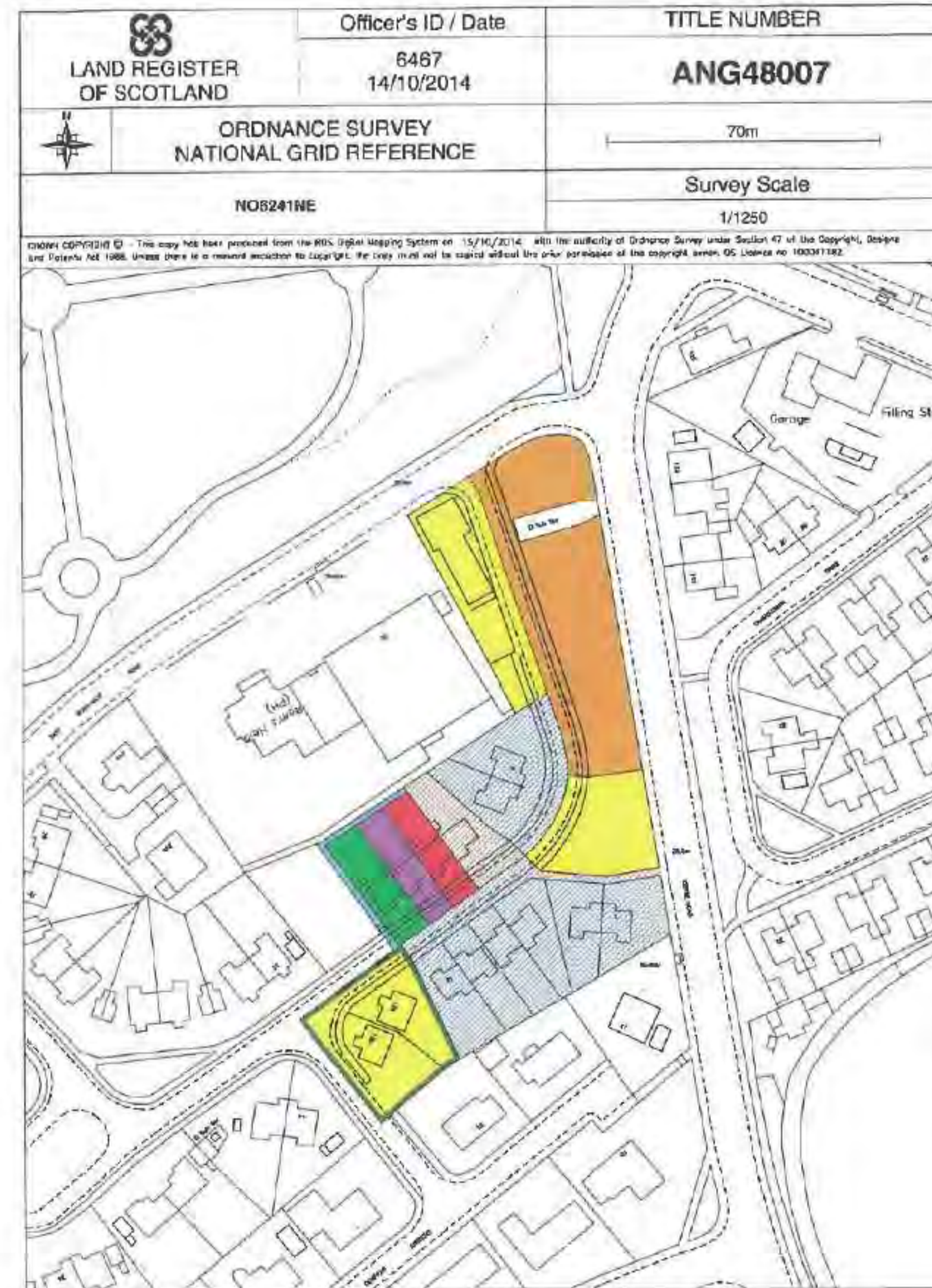




The existing area of vacant ground has been in the current owner's possession for a considerable period of time. With further reference to the wider land title, this clearly identifies three yellow areas which are development areas originally forming part of the MOD estate prior to disposal. One of which is the site relating to this application. As can be seen the two other yellow areas have previously been developed. The brown area to the north is identified as a common area and is reflected in the joint ownership and maintenance responsibilities. (See title plan, right)

Planning History

Application 09/01112/FULL for the erection of two detached dwellinghouses was refused on 31st March 2010. A subsequent appeal was dismissed by the Local Review Body. In the report of handling, officers noted that the application was on part of an area of amenity green space, that amenity space forming a usable landscape strip that contributes to the wider area and serves as a useful buffer between the existing houses and Keptie Road; no proposals have been tabled for a replacement of the open space elsewhere; the residential environment that would be created for the units would be sub-standard; potential disturbance from traffic on Keptie Road; the proposal was for two free standing units whereas the immediate vicinity of the site is characterised by terraced two storey dwellings and semi-detached two storey dwellings therefore there is no clear relationship between the proposed form of development and the existing form of development; and impact on existing residential amenity of neighbouring properties.



Angus Local Development Plan (ALDP) 2016

In accordance with the TAYplan, the ALDP continues to focus new development in the major towns, including Arbroath. The ALDP recognises that to provide flexibility, in addition to allocated sites and existing sites with planning permission, there may be other currently unidentified sites suitable for residential development. To facilitate that additional flexibility in the housing land supply, the ALDP therefore supports appropriate “windfall” sites within development boundaries which may come forward.

ALDP Policy TC1 Housing Land Supply / Release supports a generous supply of housing sites and to deliver this introduces this flexibility to support residential development on appropriate sites as set out in Policy TC2 Residential Development Principles.

ALDP Policy TC2 Residential Development states that within settlement boundaries, Angus Council will support proposals for new residential development where:

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

Policy TC4 Householder / Domestic Development states that proposals for householder development (including alterations/extensions to houses and flats, development within the curtilage of houses and flats, means of enclosure, satellite antenna and domestic scale microgeneration) will be supported where the siting, design, scale or massing of the proposal, does not:

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

ALDP Policy PV2 Open Space Protection seeks to protect and enhance existing open space areas as identified on the ALDP proposals map. The subject land is not identified as open space within the ALDP.

The ALDP states that identified open spaces within settlements form part of the green network and contribute towards the amenity and character of an area. Policy PV2 seeks to protect open spaces as identified on the ALDP settlement proposals maps. It also states that whilst the principal open spaces have been identified, the policy will apply to all open spaces, even those not identified.

Land Use / Proposal Considerations

The first principle to note is that, contrary to one of the reasons for refusal in 2010, the subject land does not constitute publicly accessible and usable amenity green space. Indeed, it is identified as white land within the ALDP. Whilst the land directly to the north has the appearance of a common grassed amenity area it is joint private ownership and maintained as such; the application site is in individual private ownership with no rights of common access, is fenced off from the shared area to the north and is not grassed. It is therefore differentiated from the shared ownership area through clear boundary demarcation, character, land use and ownership. The site does not therefore fall to be considered under ALDP Policy PV2 Open Space Protection.

As an area of “white land” within the Arbroath settlement boundary, potential uses could be either employment or residential use, both being encouraged by the ALDP within appropriate contexts. Noting the immediate neighbouring residential environs and that ALDP Policy TC1 Housing Land Allocation / Release supports additional flexibility in the housing land supply and also supports appropriate “windfall” sites within development boundaries to come forward, residential re-use is therefore considered appropriate, subject of course to satisfaction of other policies.



As referenced above, ALDP Policy TC2 Residential Development states that within settlement boundaries, Angus Council will support proposals for new residential development in certain circumstances and we consider those as follows.

- *The site is not allocated or protected for another use:* As above, the site is not allocated for any other use and is shown as white land within the settlement boundary.
- *The proposal is consistent with the character and pattern of development in the surrounding area:* Noting that the neighbouring uses are residential, appropriate residential re-use of the site is therefore considered to be acceptable in principle, subject to detailed considerations.

As can be seen on the drawings submitted this layout is comparable to the size and density of the development in the surrounding area. The house will meet with full modern standards including wheelchair accessibility and will be accessed via a private driveway from the adjacent public road with off street parking provided within the site. The application site covers an area of 539.8 m². The proposed plot sizes and garden ground and other criteria as stipulated by Advice Note 14 - Small Housing Sites have been complied with. Additionally, the requirements with regard to aspect, privacy, private garden and distance between properties can also be addressed. Separation from the existing properties to the south to the proposed gable wall comply with the guidance distances and the incorporation of a close boarded timber fence along Keptie Road is a suitable continuation of the approach already taken to enclose the private amenity space of the existing properties to the south.

It is proposed to connect the new houses to the existing mains drainage and water supply networks, with surface water provision taking full recognition of current SUDS requirements. The property will be constructed to meet the requirements of the current building standards and as such will meet the required energy efficiency, carbon emissions, accessibility, and sustainability requirements.

In conclusion, the site is considered to be appropriate for residential redevelopment in principle and the submitted indicative layout shows how the site could potentially be developed. It is therefore considered entirely appropriate for planning permission in principle to be granted for two residential units with relevant conditions regarding matters of siting, design, access and boundary treatment.



DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

**APPLICATION FOR REVIEW – LAND BETWEEN CONDOR DRIVE AND
KEPTIE ROAD, ARBROATH**

APPLICATION NO 22/00176/PPPL

APPLICANT'S SUBMISSION

Page No

ITEM 1	Notice of Review
ITEM 2	Appeal Statement
ITEM 3	Decision Notice
ITEM 4	Report of Handling
ITEM 5	Location Plan
ITEM 6	Proposed Site Plan
ITEM 7	Design Statement
ITEM 8	Application Form



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 100608124-001

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

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="c/o @architects Scotland Ltd"/>
First Name: *	<input type="text" value="John"/>	Building Number: <input type="text" value="50"/>
Last Name: *	<input type="text" value="Carswell"/>	Address 1 (Street): * <input type="text" value="Castle Street"/>
Company/Organisation	<input type="text" value="Carswell Properties Ltd"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Forfar"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="DD8 3AB"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="admin@rchitects.org.uk"/>	

Site Address Details

Planning Authority:

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

<input type="text" value="Land Between Condor Drive and Keptie Road, Arbroath"/>
--

Northing	<input type="text"/>	Easting	<input type="text"/>
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Description of Proposal

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

Erection of Two Dwellinghouses at Land Between Condor Drive And Keptie Road Arbroath (22/00176/PPPL)

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.

Please see statement as included in 'Supporting Documents' section.

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)

Statement of NoR; and all application documents.

Application Details

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

22/00176/PPPL

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

09/03/2022

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

04/10/2022

Review Procedure

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

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

Yes No

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mr Ewan Maclean

Declaration Date: 22/12/2022

Notice of Review

Land Between Condor Drive and Keptie Road, Arbroath

**Planning Permission for
Erection of Two Dwellinghouses
Planning Application Ref. 22/00176/PPPL**

Statement on behalf of

Carswell Properties Limited

December 2022

Emac Planning

- 1.0 INTRODUCTION**
- 2.0 BACKGROUND TO THE NoR / EXECUTIVE SUMMARY**
- 3.0 REASONS FOR REFUSAL / APPELLANTS RESPONSE**
- 4.0 PROSPECTIVE CONDITIONS**
- 5.0 CONCLUSION**

1.0 INTRODUCTION

- 1.1 This "Statement of Notice of Review (NoR)" (DOC 1) forms part of the NoR submitted by Carswell Properties Limited ("the Appellants"). The NoR is against the refusal by Angus Council (the "Council") of the application for Planning Permission in Principle Ref. 22/00176/PPPL (the "Application") relating to the above proposed small residential development of two houses. The application was received by Angus Council on 9th March 2022 and refused by delegated decision on 3rd October 2022, with the decision notice issued on 4th October 2022. The four reasons for refusal are listed and responded to below.
- 1.2 The appellants submit that there is no justifiable evidence to support refusal of the application on the grounds stated within the four reasons for refusal and that planning permission in principle should be granted for the reasons set out in this appeal statement and the related supporting documentation.
- 1.3 This Statement of NoR therefore contains the particulars of the appellants grounds of appeal and the matters that they consider require to be taken into account in determining this NoR. Notably, the original application was supported by a comprehensive Planning & Design Statement. Amongst other matters, the statement addressed matters associated with the planning history of the site; relevant Angus Local Development Plan policies; and the relevant land use considerations. That supporting statement is therefore included within the NoR documentation and forms useful background context. This statement concentrates on the report of handling and the officers stated reasons for delegated refusal.

2.0 BACKGROUND TO THE NoR / EXECUTIVE SUMMARY

2.1 Location / Description

- 2.1.1 The site is located off Condor Drive in a well established housing area which lies within the settlement boundary of Arbroath. Due to the sites integrated location within the predominantly residential local environs, it is clear that the residential use would integrate well within the existing urban form. As one would expect at this popular residential location, there are also good public transport and pedestrian / cycle links providing convenient access to local services and recreational opportunities.
- 2.1.2 The planning policy context applicable to the proposals and in particular the ALDP will be analysed in detail throughout this statement. It is worth noting at the outset however that one of the key elements of the ALDP strategy and a key element in the creation of sustainable communities (re:ALDP page 10) is how well new development is integrated with the existing form of development and transport networks. The ALDP development strategy therefore supports new development in locations that are well related to the existing form and pattern of development and therefore the existing transport network. This is one such proposal.
- 2.1.3 At the outset, it is important for the determiner to fully appreciate the background to this potential infill development site and indeed other local infill development sites, already complete, which are located within the immediate environs. The application site, subject of this NoR, is an existing area of vacant ground that has been in the current owners possession for a considerable period of time. It was one of three areas which were originally identified as development areas which formed part of the MOD estate prior to disposal. The other two areas have been developed. (All three areas are shown coloured yellow within Appendix 1).
- 2.1.4 The area on the corner of Condor Drive received planning permission for two detached houses and has been developed. The area of land at the north end of Condor Drive received consent for the erection of two hot food takeaways and has been developed. This leaves the current vacant and fenced off infill site as an unresolved development parcel that can be addressed through an appropriate residential consent.
- 2.1.5 Contrary to the case officer's assertion, the subject land is not formal public open space. The land is fenced off, in private ownership and there is no public right of access. It is a clear material consideration therefore that the subject land is not and never will be public open space.
- 2.1.6 With reference to the level of formal open space within the local environs, i.e. outwith the subject land, the attached plan suitably demonstrates that there is a significant level of open and accessible open space in the local area.

3.0 REASONS FOR REFUSAL / APPELLANTS RESPONSE

- 3.1 The application was refused under delegated powers for four reasons. The following summarises the four reasons for refusal and provides the appellants' rebuttal of each.

Reason for Refusal 1: The proposal is contrary to policies PV2, DS1 and TC2 of the Angus Local Development Plan because it would involve development on and loss of protected amenity open space.

Appellants Response:

- Fundamentally, the application site is not identified within the ALDP as "protected amenity open space". This is an error of ALDP policy application that runs through the officer's analysis which leads to a flawed conclusion and delegated refusal. Notwithstanding, the policies to which the officer refers are considered for their relevance as follows.
- **ALDP Policy PV2: Open Space Protection and Provision within Settlements** seeks to protect existing open space areas. The application site is not an existing open space area. The subject land does not constitute publicly accessible and usable amenity green space. Indeed, it is identified as white land within the ALDP proposals map. Whilst the land directly to the north has the appearance of a common grassed amenity area and is joint third party ownership with no general public rights, the application site is completely separate and in individual private ownership. There are no rights of common access and the site is clearly fenced off from the open space area to the north. It is therefore differentiated from the area to the north through clear boundary demarcation, character, land use and ownership, which is all reflected by the lack of public / neighbour objection to these proposals. It is a clear material consideration therefore that the subject land is not and never will be public open space. The case officer's report of handling simply ignores this point. The site does not therefore fall to be considered under ALDP Policy PV2.
- **ALDP Policy DS1: Development Boundaries and Priorities** supports proposals on sites not allocated or otherwise identified for development within settlement boundaries where they are of an appropriate scale and nature and in accordance with relevant policies of the ALDP.

- The site is clearly within the settlement boundary of Arbroath.
- In terms of appropriate scale and nature, as can be seen from the submitted drawings, the indicative layout shows that residential development can be accommodated that is comparable to the size and density of development in the surrounding area. The proposed houses will meet with full modern standards including wheelchair accessibility and will be accessed via a private driveway from the adjacent public road, with off street parking provided within the site. The proposed plot sizes and garden ground and other criteria as stipulated by Angus Council Advice Note 14: Small Housing Sites have all been complied with. Additionally, the requirements with regard to aspect, privacy, private garden and distance between properties can also be addressed. Separation from the existing properties to the south to the proposed gable wall comply with the guidance distances and the incorporation of a close boarded timber fence along Keptie Road is an entirely suitable continuation of the approach already taken to enclose the private amenity spaces of the existing properties to the south.
- This statement confirms that the proposals are in accordance with the relevant policies of the ALDP.
- **ALDP Policy TC2: Residential Development** states that within settlement boundaries, Angus Council will support proposals for new residential development where: the site is not allocated or protected for another use; and the proposal is consistent with the character and pattern of development in the surrounding area.
 - *The site is not allocated or protected for another use:* As above, the site is clearly not allocated for any other use and is shown as white land within the settlement boundary.
 - *The proposal is consistent with the character and pattern of development in the surrounding area:* Noting that the neighbouring uses are residential, appropriate residential re-use of the site must therefore be considered acceptable in principle, subject to detailed considerations, noting that an indicative layout has been submitted showing how a pair of semidetached units, very similar to neighbouring character and density, can be accommodated on site.

Reason for Refusal 2: The proposal is contrary to policy TC2 of the Angus Local Development Plan because it would not provide a satisfactory residential environment for future occupants by virtue of the limited plot size and relationship to neighbouring property and land uses, and as it would adversely affect the amenity of existing residents and detract from the natural environment of the area through the reduction in available open space.

Appellants Response:

- As referenced above, the proposals are in accordance with Policy TC2.
- The proposed houses will meet with full modern standards including wheelchair accessibility and will be accessed via a private driveway from the adjacent public road, with off street parking provided within the site. The proposed plot sizes and garden ground and other criteria as stipulated by Angus Council Advice Note 14: Small Housing Sites have all been complied with. Additionally, the requirements with regard to aspect, privacy, private garden and distance between properties can also be addressed. Separation from the existing properties to the south to the proposed gable wall comply with the guidance distances and the incorporation of a close boarded timber fence along Keptie Road is an entirely suitable continuation of the approach already taken to enclose the private amenity spaces of the existing properties to the south.
- This appeal statement considers and demonstrates compliance with ALDP policies DS1, TC1 and TC2 as referenced within section 3.3 above. Notably, whilst the officers committee report refers to Policy TC2 being relevant to the determination of the application and then also lists TC2 within this reason for refusal 2; this statement is however without any justification as there is no detailed analysis of policy TC2 whatsoever throughout the entire Committee Report. Within the submitted Planning and Delivery Statement, the applicants did however recognise that this was an important policy reference and provided a detailed analysis. That analysis justifies the appellants position, whilst noting that the case officer did not provide any detailed analysis or justification of their position.

Reason for Refusal 3: The proposal is contrary to Policy DS3 of the Angus Local Development Plan and its associated design quality and placemaking supplementary guidance because it would result in a form of development that would not contribute positively to the character and sense of place of the area as it would remove characteristic open space and as it would require provision of high boundary enclosures as an interface with public areas.

Appellants Response:

- Again, the case officer misinterprets the land use in stating within the report of handling that the proposals would remove open space. As referenced above, the site is categorically not formal public open space. When proposals do not remove open space, as is the case here, the report of handling also usefully

confirms however that in those circumstances relaxation of council standards may be acceptable where the development would otherwise be acceptable.

- The report of handling is thereafter critical of the proposal in that it is “*generally only capable of meeting minimum spatial standards*”. Two points emerge from this, firstly that if a proposal meets minimum standards, which this does, then it can be considered acceptable. That is confirmed by the report of handling. Second, this is an application for planning permission in principle and the indicative layout merely establishes that minimum standards can be met. If planning permission in principle is granted then appropriate conditions can be imposed to ensure that at least minimum standards are adhered to in any subsequent detailed application.

Reason for Refusal 4: The proposal is contrary to Policy DS1 of the Angus Local Development Plan because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2, DS3 and PV2 and the adopted the design quality and placemaking supplementary guidance.

Appellants Response:

- ALDP Policies DS1, TC2, DS3 and PV2 have all been appropriately addressed above within reasons for refusal 1, 2 and 3. This reason for refusal seeks to unnecessarily repeat these matters to no constructive effect.

4.0 PROSPECTIVE CONDITIONS

- 4.1 The officers report of handling did not include a list of conditions, i.e. should the NoR be successful. Further to the submission of the NoR, should the review body be minded to grant consent, the appellants would be happy to liaise with officers to agree a suitable list of conditions that could be reported back to the review body for agreement and release of consent.

5.0 CONCLUSION

- 5.1 S25 of the Town and Country Planning (Scotland) Act 1997 and the Planning etc (Scotland) Act 2006 require that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.
- 5.2 In the case of this NoR, it is submitted that the consideration of the relevant Development Plan policies and the relevant material considerations, for the reasons set out in this appeal statement and the various supplementary and technical reports, the appeal should be upheld.
- 5.3 Furthermore, 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. The Angus Local Development Plan is more than 5 years old and the proposal contributes to sustainable development.
- 5.4 In conclusion, the site is considered to be entirely appropriate in principle for residential development and the submitted indicative layout demonstrates how the site could be developed in accordance with all required council standards. It is therefore considered entirely appropriate for planning permission in principle to be granted for residential development with relevant conditions regarding matters of siting, design, access and boundary treatment.

ADJACENT OPEN
GROUND.



ANGUS COUNCIL

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



PLANNING PERMISSION IN PRINCIPLE REFUSAL
 REFERENCE : 22/00176/PPPL

To Carswell Properties Ltd. John Carswell
 c/o @rchitects Scotland Ltd
 Paul Fretwell
 50 Castle Street
 Forfar
 DD8 3AB

With reference to your application dated 11 March 2022 for Planning Permission in Principle under the above mentioned Acts and Regulations for the following development, viz:-

Erection of Two Dwellinghouses at Land Between Condor Drive And Keptie Road Arbroath for Carswell Properties Ltd. John Carswell

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission in Principle (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docquetted 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, DS1 and TC2 of the Angus Local Development Plan because it would involve development on and loss of protected amenity open space.
- 2 The proposal is contrary to policy TC2 of the Angus Local Development Plan because it would not provide a satisfactory residential environment for future occupants by virtue of the limited plot size and relationship to neighbouring property and land uses, and as it would adversely affect the amenity of existing residents and detract from the natural environment of the area through the reduction in available open space.
- 3 The proposal is contrary to Policy DS3 of the Angus Local Development Plan and its associated design quality and placemaking supplementary guidance because it would result in a form of development that would not contribute positively to the character and sense of place of the area as it would remove characteristic open space and as it would require provision of high boundary enclosures as an interface with public areas.
- 4 The proposal is contrary to Policy DS1 of the Angus Local Development Plan because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2, DS3 and PV2 and the adopted the design quality and placemaking supplementary guidance.

Amendments:

The application has not been subject of variation.

Dated this **4 October 2022**

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.

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 (<i>appeal to Scottish Ministers</i>) – See details on attached Form 1
Delegated Decision	Local developments determined by Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	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 (<i>appeal to Scottish Ministers</i>) – See details on attached Form 1

NOTICES

Notification of initiation of development (NID)

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

Notification of completion of development (NCD)

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

Display of Notice while development is carried out

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

The notice must be in the prescribed form and:-

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

A display notice is included with this guidance note.

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

Angus Council
Angus House
Orchardbank Business Centre
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"/>
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Q.9 Were you the:-

Applicant	<input type="checkbox"/>	Agent	<input type="checkbox"/>	Third Party objector who made a representation	<input type="checkbox"/>
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Please complete the form and return in the pre-paid envelope provided.
Thank you for taking the time to complete this form.

Angus Council

Application Number:	22/00176/PPPL
Description of Development:	Erection of Two Dwellinghouses
Site Address:	Land Between Condor Drive And Keptie Road Arbroath
Grid Ref:	362743 : 741680
Applicant Name:	Carswell Properties Ltd. John Carswell

Report of Handling

Site Description

The site measures around 540 sqm and is located on an area of land between Condor Drive and Keptie Road. A small path is located to the south with housing beyond this and an area of amenity open space is located to the north. Housing is located to the east and west beyond the public roads. The area is enclosed by fencing and the soil has been stripped, but until that point it formed part of the larger open space to the north.

Proposal

The proposal seeks planning permission in principle for the erection of two dwellinghouses on the site. An indicate layout plan shows two, 2-storey houses provided in a semi-detached form. Vehicular access would be taken from Condor Drive to the west. The application form indicates that the proposal would connect to the public drainage and water supply and that SUDS would be provided.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 18 March 2022

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

Planning History

[09/01112/FULL](#) for Planning Permission for the Erection of Two Dwellinghouses was determined as "Refused" on 31 March 2010. The application was refused for the following reasons: -

- 1 That the proposed development would not lead to the creation of a satisfactory residential environment by virtue of the relationship of the proposed rear amenity areas to Keptie Road which is an A Class Distributor Road. As such the proposal is considered to be contrary to Policy S1, Policy SC2 and Policy S6 in the Angus Local Plan Review.
- 2 That the proposed form of development would be at odds with the general character and

pattern of development of the area by virtue of the type of dwellings proposed, the siting and orientation of those buildings on the site and the use of an existing characteristic amenity green space as building plots. The proposal is therefore considered to be at odds with Policy S1 and S3 in the Angus Local Plan Review.

- 3 That the proposed development fails to provide for 100 sqm of useable private garden ground per dwelling and would not maintain the residential amenity and privacy of adjoining housing and is therefore considered to be at odds with Policy SC2 and Policy S1 in the Angus local Plan Review.
- 4 That the proposed development would take place on an existing area of amenity green space which is considered to be of amenity value however the development is not necessary to achieve a retention or enhancement of that green space and there is no proposal to provide a community benefit through the provision of an alternative green space elsewhere locally. Additionally there is no evidence to suggest that there is an over provision of such green spaces locally. The proposal is therefore considered to be contrary to Policy SC32 and Policy S1 in the Angus Local Plan Review.

That decision was subject of a review to the Development Management Review Committee (DMRC) in June 2010. The DMRC dismissed the review and refused planning permission. The DMRC concluded that the proposed layout and density of the development was out of character with the existing pattern of development in the area, and that the loss of open space would be detrimental to the appearance of the area. It also concluded that the level of private amenity space was considerably less than that advised in Advice Note 14 and that there would be amenity impacts on existing dwellings.

Furthermore, the DMRC determined that the applicant had not justified the loss of open space within the context of any of the tests set by Policy SC32, Open Space Protection. The DMRC was of the opinion that loss of any part of the open space would be detrimental to the character and appearance of the area.

Applicant's Case

Planning And Design Statement:

- Describes the site location;
- Notes that the design will be considered as part of a detailed application but that they will be able to be integrated into the surrounding environment;
- Describes site history and that the areas originally formed part of the MOD estate with other areas previously developed;
- Planning history - notes that Application 09/01112/FULL for the erection of two detached dwellinghouses was refused on 31st March 2010. A subsequent appeal was dismissed by the Local Review Body. In the report of handling, officers noted that: the application was on part of an area of amenity green space, that amenity space forming a usable landscape strip that contributes to the wider area and serves as a useful buffer between the existing houses and Keptie Road; no proposals have been tabled for a replacement of the open space elsewhere; the residential environment that would be created for the units would be sub-standard; potential disturbance from traffic on Keptie Road; the proposal was for two free standing units whereas the immediate vicinity of the site is characterised by terraced two storey dwellings and semi-detached two storey dwellings therefore there was no clear relationship between the proposed form of development and the existing form of development; and impact on existing residential amenity of neighbouring properties;
- Refers to policies and land use considerations and states that the land does not constitute publicly accessible and usable amenity green space. Indeed, it is identified as white land within the ALDP. Whilst the land directly to the north has the appearance of a common grassed amenity area, it is in joint private ownership and maintained as such. States that the application

site is in individual private ownership with no rights of common access, is fenced off from the shared area to the north and is not grassed. It is therefore differentiated from the shared ownership area through clear boundary demarcation, character, land use and ownership. The site does not therefore fall to be considered under ALDP Policy PV2 Open Space Protection;

- States that the site is not protected for another use and that the proposal is consistent with the character and pattern of development in the surrounding area;

- The application site covers an area of 539.8 sqm. The proposed plot sizes and garden ground and other criteria as stipulated by Advice Note 14 - Small Housing Sites have been complied with.

- In conclusion, the statement suggests the site is appropriate for residential redevelopment in principle and the submitted indicative layout shows how the site could potentially be developed. It is therefore considered entirely appropriate for planning permission in principle to be granted for two residential units with relevant conditions regarding matters of siting, design, access and boundary treatment.

Consultations

Parks & Burial Grounds - Confirmed the site is part of an area of open space bound by Keptie Road to the east and Condor Drive to the west. Stated that although the ground has been cleared in recent times it is apparent that the site has been used as amenity open space at least until April 2021, with football goals being present on this area of grass. It has also been maintained as open space up to that time and no alternative spaces are available in the vicinity. Stated that this ground should remain in use as open space

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

Roads (Traffic) - No objections subject to various conditions including a scheme of improvements to Condor Drive being submitted and approved. The scheme of improvement should include for carriageway widening and footway re-alignment ex-adverso the site. It has indicated that an existing advance directional road sign, located on Keptie Road but partially within the site must remain unaffected by any development of the site.

The Roads Service confirmed that the indicative driveway to the southernmost plot intersects Condor Drive at an acute angle and due to the narrowness of the carriageway of Condor Drive access and egress to this driveway by vehicles would be compromised. It has advised that, if approved, full details of the access proposals should be provided to demonstrate that access and egress to the plots would be safe and suitable.

Scottish Water - No objection.

Representations

Two letters of representation offering general comment were submitted.

The main points raised were as follows:

- Development should be residential rather than commercial;
- Lack of information submitted (to assess amenity impacts) to make full decision;
- Access to the site should be from Keptie Road as a lot of children play in the area;
- Possible impacts on parking;
- Possible road safety matters due to nature of the existing road and works required to upgrade

the road.

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 PV15 : Drainage Infrastructure

TAYplan Strategic Development Plan

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

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

Assessment

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

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. It also states that 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.

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 specifically states that development involving the loss of open space (**including smaller spaces not identified on the Proposals Map**) will only be permitted where: -

- the proposed development is ancillary to the principal use of the site as a recreational resource; or
- 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
- 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
- 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.

The narrative associated with the policy states that '*whilst the ALDP identifies principal open spaces on the Proposals Map, the policy will apply to all open space areas within development boundaries including other smaller spaces which may not be shown on a map*'. It further states that the intent of the policy is to protect open spaces from development which might erode the function or characteristics for which they are valued. The policy aims to ensure that where development is proposed the loss is justified and that compensatory provision is made.

The land has been used as amenity open space over a significant period of time and this is clearly evidenced in available photographic images. Publicly available online digital imagery confirms the area was in grass and open for public use between August 2008 and April 2021. Images during that period demonstrate the presence of goalposts on the land and demonstrate its use as open space. The land has been in use as amenity open space for a period in excess of 10 years and such use is likely to represent the lawful use. While a fence has been erected and soil stripped, no planning permission has been granted to allow change of use of the land. In terms of this planning application the site must be considered as open space/ amenity green space and this approach is consistent with the planning history, including the application previously refused in 2010. The council's DMRC has previously determined that the site is a valuable open space amenity area, and that position continues to be supported by the council's parks service. The recent erection of fencing to exclude access to the area does not mean that the provisions of policy PV2 should no longer be applied; accepting such an approach would undermine the purpose and intent of the policy.

In this case: -

- the proposed development is not ancillary to the principal use of the site as a recreational resource;
- the applicant has not provided any information or open space audit or strategy to demonstrate that there is an excess of open space of this type in the area. The council's parks service has raised concern regarding the loss of this area given available resource in the wider area, and loss of the area has been an issue in terms of previous planning decisions;
- there is no evidence to suggest that redevelopment would result in retention or enhancement of the wider open space. The DMRC has previously determined that the loss of any part of the open space would be detrimental to the character and appearance of the area.
- the proposal makes no provision for replacement open space within the local area.

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 DS1 of the ALDP as it involves development on greenfield land in a manner that is not compatible with other policies of the plan, and where there are other sites within the development boundary of Arbroath that are capable of accommodating the development of two houses.

Policy TC2 of the ALDP deals specifically with proposals for new residential development. It indicates that proposals within development boundaries will be supported where the site is not allocated or protected for another use, and where the proposal is consistent with the character and pattern of development in the surrounding area. In this case, and as discussed above, the application site is protected open space by virtue of policy PV2; it is protected for open space use. On this basis, the principle of residential development on the site is not consistent with policy TC2.

Policy TC2 also indicates that all proposals for new residential developments must be compatible in terms of land use; provide a satisfactory residential environment; not result in unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure; and 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, Advice Note 14 indicates that plots should generally be a minimum of 400sqm, but also indicates that in areas of high density and where small plots are characteristic, or for some semi-detached houses, a lower minimum of 350sqm may be acceptable. In this case the total site area measures around 540sqm and therefore plots would be in the region of 270sqm. The indicative layout plan suggests the plots could provide around 100sqm of private garden ground and that they could accommodate parking for two cars. However, the developable area might be reduced by any necessary improvements required to Condor Drive, and the private garden areas would back onto Keptie Road. Privacy for the identified rear garden areas could only be achieved through the provision of high boundary enclosures adjacent to the Keptie Road footway. This matter is addressed further below. It is relevant to note that the upper floor windows of properties to the south would overlook the private garden area of the southernmost plot at a distance of around 9m which represents the very minimum separation distance required by design guidance; the normal standard is 12m.

The proposal would result in the loss of amenity open space in an existing residential area. That open space adds to the amenity of the area, and it provides opportunity for social interaction and physical activity. The functionality of the area and its useability would be significantly reduced if this section, which benefits from natural surveillance from neighbouring properties, was lost. The reduction in open space which is a characteristic feature of the area would reduce the amenity of existing residents.

The nature of the site is such that private garden areas could only be provided if they were screened from surrounding public areas by high boundary enclosures. That approach is generally not consistent with the council's design quality and placemaking supplementary guidance which promotes outward facing perimeter block development and which states that *large areas of fencing or blank elevations will not be acceptable where they form a public/private interface*. There are examples of private garden areas backing on to public areas and routes in the area, and those demonstrate why development that requires that approach should be avoided. Such an arrangement would be an inevitable consequence of housing development on this site. The proposal would not improve the character of the area and the reduction in open space would not improve the safety or pleasantness of the area.

In terms of access and parking arrangements, the roads service has raised no objections subject conditions relating to road improvements and the proposal does not give rise to significant issues in terms of the remaining criteria of policy TC2.

While the proposed house plots may be comparable in size with others in the area, they would be below minimum plot sizes required by council design guidance. Relaxation of those normal standards might be acceptable where the development would otherwise be acceptable. However, this proposal would remove open space to the detriment of the amenity of existing residents; the southernmost plot would be overlooked by neighbouring property; and the formation of enclosures necessary to provide private garden areas would detract from the visual amenity of the areas. The proposal fails to meet recognised spatial standards in terms of plot

size and is otherwise generally only capable of meeting minimum spatial standards in circumstances where it would detract from the existing amenity of the area. The proposal is contrary to policies DS3 and TC2 and is not consistent with design and placemaking supplementary guidance.

The principle of the development on the application site is contrary to policies DS1, DS3, TC2 and PV2 of the ALDP for the reasons set out above.

In addition to the development plan, other material considerations have also been taken into account. In this case those are the relevant planning history, the planning matters raised in representation and in the applicant's supporting information, in so far as they have not been addressed above, and Scottish Planning Policy (SPP).

In terms of planning history, it is evident that the site has been used as amenity open space for a considerable period of time. A previous planning permission for two houses on this site was refused and that decision was supported by the council's Development Management Review Committee. The DMRC was clear that residential development on this land was contrary to council policy and not acceptable. While the policy environment has changed in the intervening period, the general purpose and intent of those policies has not changed materially. The policies continue to seek to ensure that open space is protected from development, and that new residential development provides a good living environment and deliver a high design standard. While the area has now been fenced and stripped of grass, the characteristics of the site remain otherwise largely unchanged. The fundamental issue regarding the incompatibility of this proposal with development plan policy, and the unacceptability of the loss of open space remain unchanged since the previous application was refused. The previous refusal merits some weight in the decision-making process.

The matters raised in representation are noted, but the application is for housing development and it suggests access would be taken from Condor Drive. Issues regarding the acceptability of the principle of development and the proposed access arrangements are addressed above. If planning permission was granted, a further application or applications would be required for approval of detailed matters to allow further consideration of the proposal.

In relation to the supporting information provided by the applicant, land ownership is not a material planning consideration. The erection of a fence to prohibit public access does not change an area's lawful use and it does not alter the relevance of policies that are designed to safeguard open space. Accepting such an approach could pose a significant threat to other privately owned open space areas throughout Angus.

Paragraph 33 of SPP 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 remains up-to-date but the ALDP is more than 5-years old as it was adopted in September 2016. The proposal would meet some of the principles identified in SPP as contributing towards sustainable development. However, the development of greenfield, open space in an existing residential area would not make efficient use of land; it would not reduce opportunities for social interaction and physical activity; it would not protect, enhance or promote access to natural heritage, including green infrastructure; and reducing available open space would not protect the amenity of existing development. The proposal would not, in overall terms, be considered to be sustainable development and it would not find support from SPP. The harm associated with the proposal would be permanent and significantly and demonstrably outweigh the benefit associated with the provision of two new houses.

In conclusion, the erection of houses on amenity open space is contrary to development plan policy. That conclusion is consistent with previous decisions taken in relation to this site. In addition, the proposal would not provide a good living environment and the loss of amenity open space would adversely affect the amenity enjoyed by existing residents in the area. The proposal is contrary to development plan policy and there are no material considerations that 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, DS1 and TC2 of the Angus Local Development Plan because it would involve development on and loss of protected amenity open space.
- 2 The proposal is contrary to policy TC2 of the Angus Local Development Plan because it would not provide a satisfactory residential environment for future occupants by virtue of the limited plot size and relationship to neighbouring property and land uses, and as it would adversely affect the amenity of existing residents and detract from the natural environment of the area through the reduction in available open space.
- 3 The proposal is contrary to Policy DS3 of the Angus Local Development Plan and its associated design quality and placemaking supplementary guidance because it would result in a form of development that would not contribute positively to the character and sense of place of the area as it would remove characteristic open space and as it would require provision of high boundary enclosures as an interface with public areas.
- 4 The proposal is contrary to Policy DS1 of the Angus Local Development Plan because the proposal is not in accordance with relevant policies of the local development plan, namely policies TC2, DS3 and PV2 and the adopted the design quality and placemaking supplementary guidance.

Notes:

Case Officer: James Wright

Date: 3 October 2022

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 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.

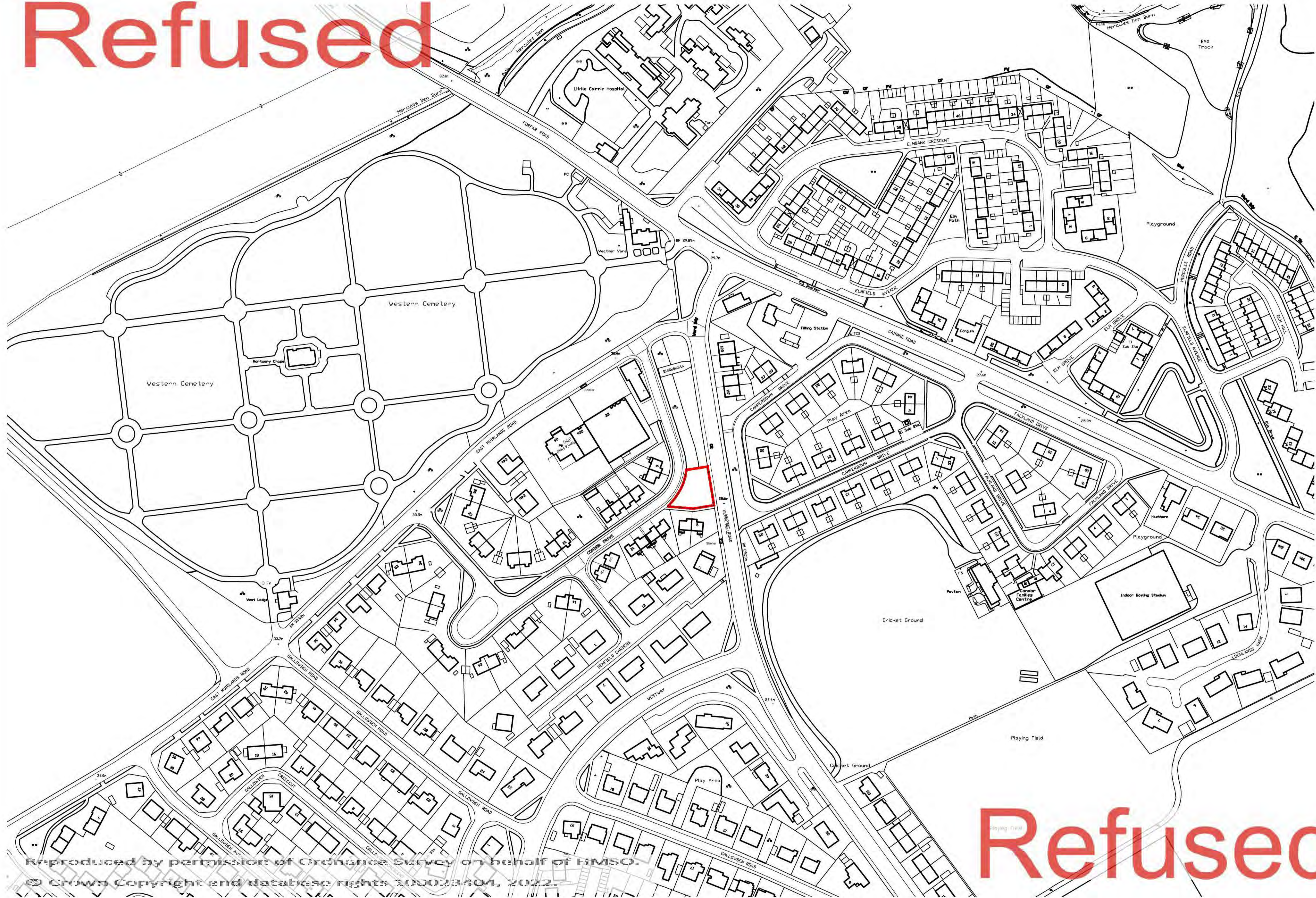
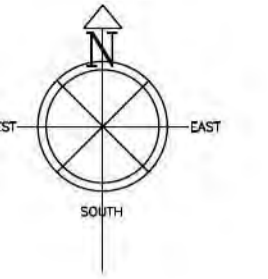
Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

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

Refused

NOTES

ITEM 5



Refused

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Mr. J. Carswell
Carswell Properties Ltd.
Newmains
Duncan Avenue
Arbroath

CLIENT
Proposed New Housing
Condor Drive
Arbroath
Angus

SCALE
1:1250 @ A1
CAD FILE
1317

DATE
December 2021
DRAWN BY
GB

DRAWING TITLE
Location Plan

DRAWING TITLE

@rchitects

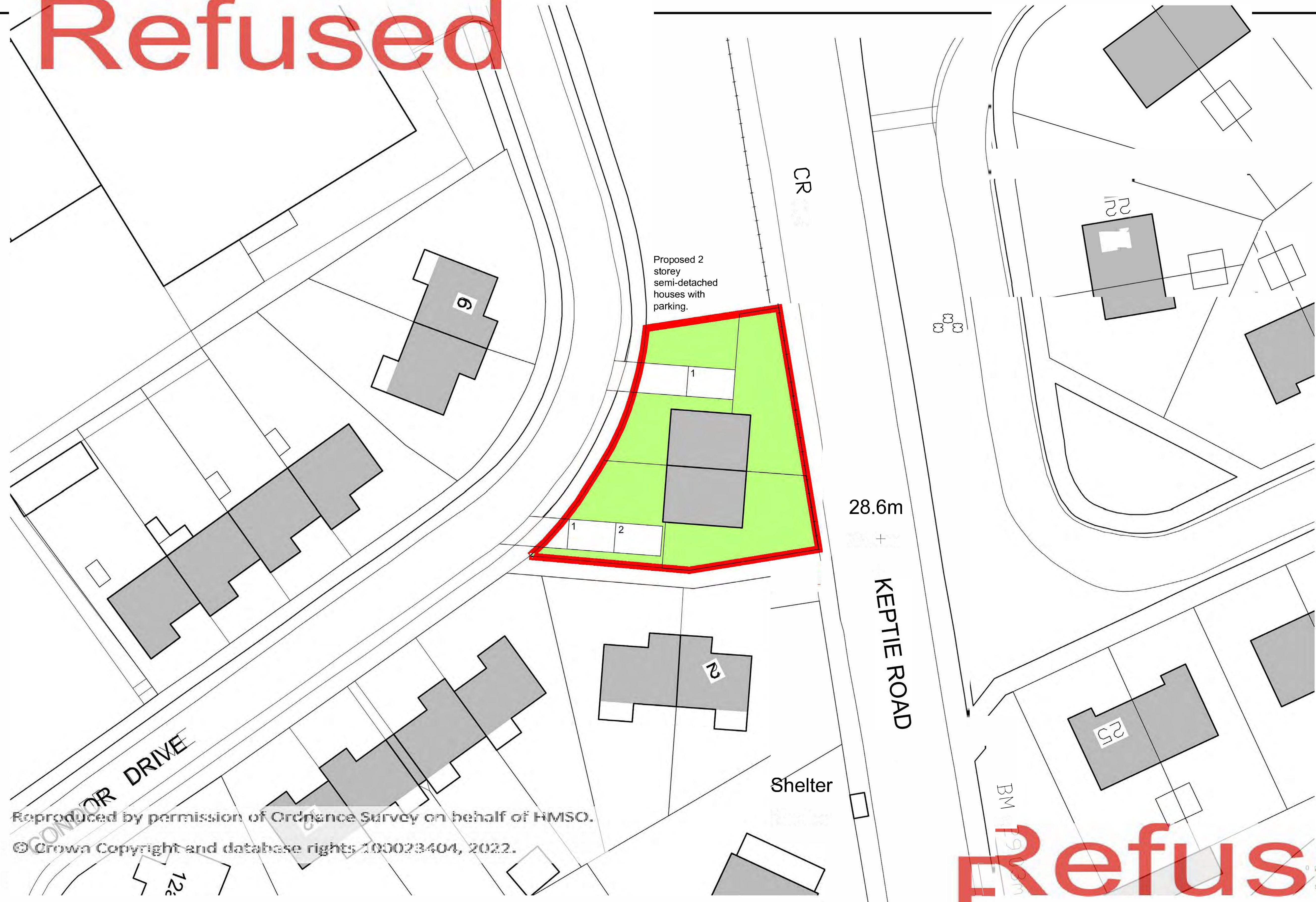
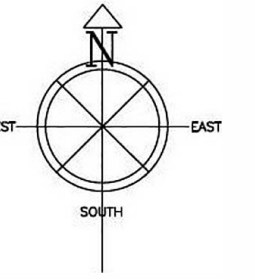
15 West High Street
Forfar, Angus
DD8 1BE

1317 / LP / 01

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DWG NO.

Refused



28.6m

KEPTIE ROAD

Shelter

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Refused

REVISIONS

CLIENT	Proposed New Housing
Carwell Properties Ltd.	Condor Drive
Newmains	Arbroath
Duncan Avenue	Angus
Arbroath	

SCALE	DATE
1:200 @ A1	December 2021
CAD FILE	DRAWN BY
1317	GB

PROJECT
15 West High Street
Forfar, Angus
DD8 1BE

DRAWING TITLE
Proposed Site Plan

1317 / PD / 01

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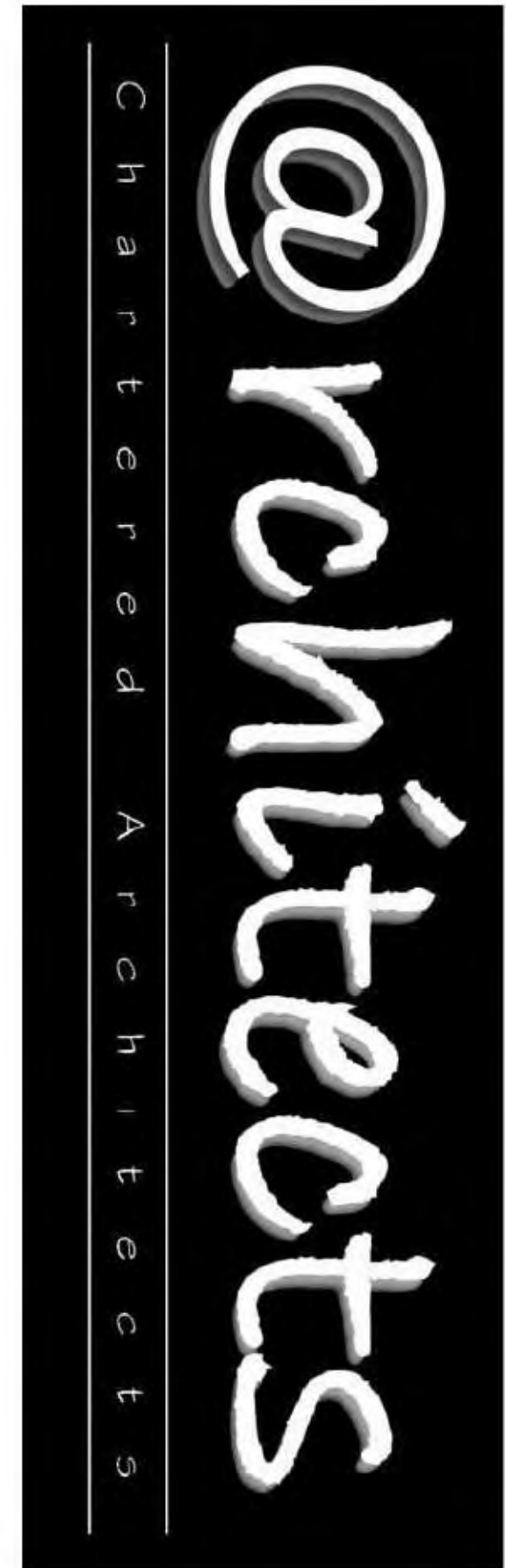
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CONDOR DRIVE, ARBROATH, ANGUS
PROPOSED NEW SEMI-DETACHED HOUSES

February 2022



DESIGN STATEMENT



STATEMENT SUPPORTING OUTLINE PLANNING APPLICATION

Introduction

The site is located off Condor Drive in an established housing area within the settlement boundary of Arbroath.

While the detailed design of the proposed semi-detached houses will be subject to further scrutiny by way of appropriate condition, the initial design approach is for two semi detached, two storey residential properties similar to those in the immediate vicinity. An indication of the size and positioning is marked on the submitted drawings and the units will be of a modern and efficient design. Due to the sites location within predominantly residential environs, it is considered that the proposals will integrate well with the existing urban form. There are also good public transport and pedestrian / cycle links providing convenient access to local services and recreation opportunities.

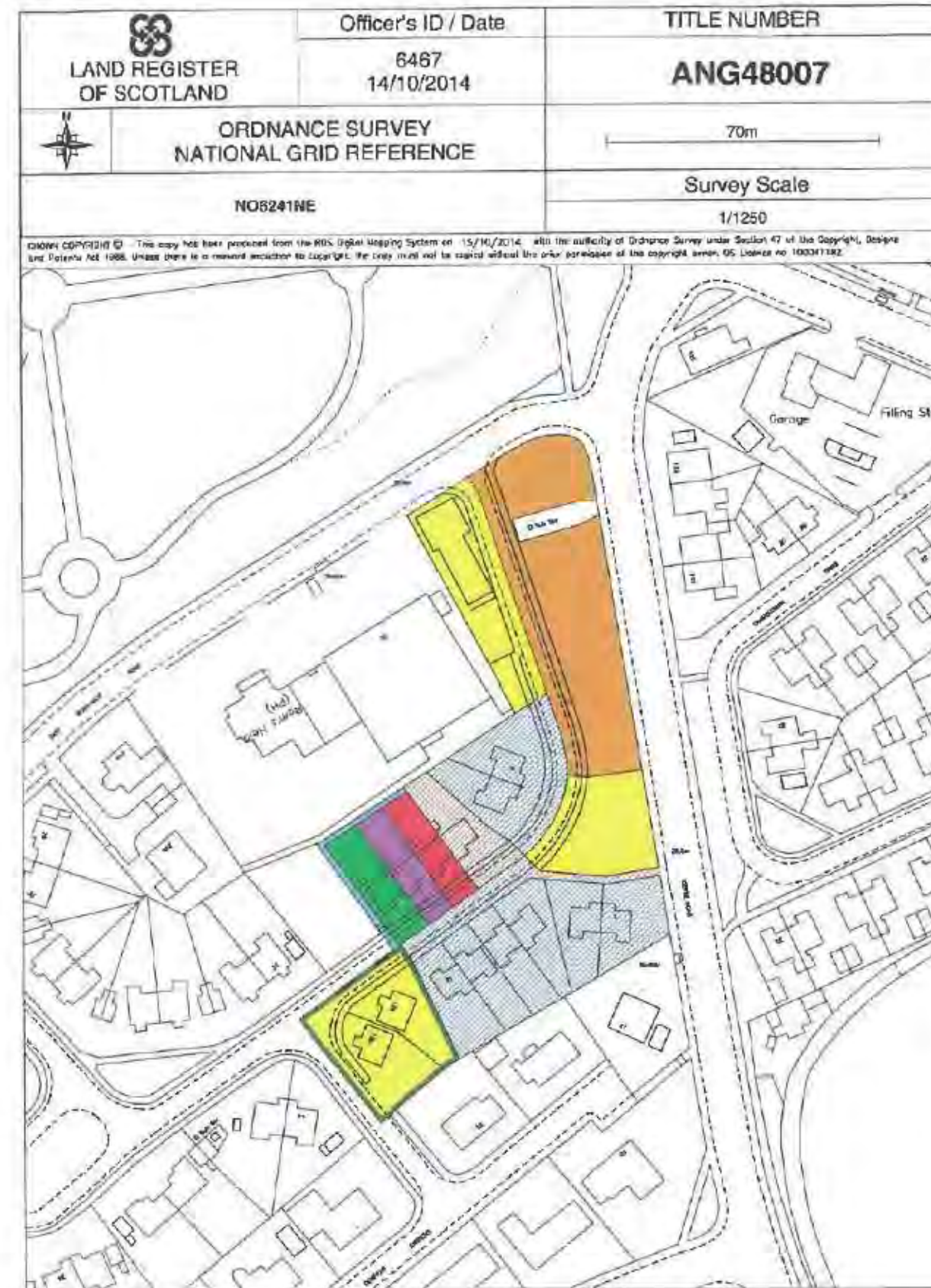




The existing area of vacant ground has been in the current owner's possession for a considerable period of time. With further reference to the wider land title, this clearly identifies three yellow areas which are development areas originally forming part of the MOD estate prior to disposal. One of which is the site relating to this application. As can be seen the two other yellow areas have previously been developed. The brown area to the north is identified as a common area and is reflected in the joint ownership and maintenance responsibilities. (See title plan, right)

Planning History

Application 09/01112/FULL for the erection of two detached dwellinghouses was refused on 31st March 2010. A subsequent appeal was dismissed by the Local Review Body. In the report of handling, officers noted that the application was on part of an area of amenity green space, that amenity space forming a usable landscape strip that contributes to the wider area and serves as a useful buffer between the existing houses and Keptie Road; no proposals have been tabled for a replacement of the open space elsewhere; the residential environment that would be created for the units would be sub-standard; potential disturbance from traffic on Keptie Road; the proposal was for two free standing units whereas the immediate vicinity of the site is characterised by terraced two storey dwellings and semi-detached two storey dwellings therefore there is no clear relationship between the proposed form of development and the existing form of development; and impact on existing residential amenity of neighbouring properties.



Angus Local Development Plan (ALDP) 2016

In accordance with the TAYplan, the ALDP continues to focus new development in the major towns, including Arbroath. The ALDP recognises that to provide flexibility, in addition to allocated sites and existing sites with planning permission, there may be other currently unidentified sites suitable for residential development. To facilitate that additional flexibility in the housing land supply, the ALDP therefore supports appropriate “windfall” sites within development boundaries which may come forward.

ALDP Policy TC1 Housing Land Supply / Release supports a generous supply of housing sites and to deliver this introduces this flexibility to support residential development on appropriate sites as set out in Policy TC2 Residential Development Principles.

ALDP Policy TC2 Residential Development states that within settlement boundaries, Angus Council will support proposals for new residential development where:

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

Policy TC4 Householder / Domestic Development states that proposals for householder development (including alterations/extensions to houses and flats, development within the curtilage of houses and flats, means of enclosure, satellite antenna and domestic scale microgeneration) will be supported where the siting, design, scale or massing of the proposal, does not:

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

ALDP Policy PV2 Open Space Protection seeks to protect and enhance existing open space areas as identified on the ALDP proposals map. The subject land is not identified as open space within the ALDP.

The ALDP states that identified open spaces within settlements form part of the green network and contribute towards the amenity and character of an area. Policy PV2 seeks to protect open spaces as identified on the ALDP settlement proposals maps. It also states that whilst the principal open spaces have been identified, the policy will apply to all open spaces, even those not identified.

Land Use / Proposal Considerations

The first principle to note is that, contrary to one of the reasons for refusal in 2010, the subject land does not constitute publicly accessible and usable amenity green space. Indeed, it is identified as white land within the ALDP. Whilst the land directly to the north has the appearance of a common grassed amenity area it is joint private ownership and maintained as such; the application site is in individual private ownership with no rights of common access, is fenced off from the shared area to the north and is not grassed. It is therefore differentiated from the shared ownership area through clear boundary demarcation, character, land use and ownership. The site does not therefore fall to be considered under ALDP Policy PV2 Open Space Protection.

As an area of “white land” within the Arbroath settlement boundary, potential uses could be either employment or residential use, both being encouraged by the ALDP within appropriate contexts. Noting the immediate neighbouring residential environs and that ALDP Policy TC1 Housing Land Allocation / Release supports additional flexibility in the housing land supply and also supports appropriate “windfall” sites within development boundaries to come forward, residential re-use is therefore considered appropriate, subject of course to satisfaction of other policies.



As referenced above, ALDP Policy TC2 Residential Development states that within settlement boundaries, Angus Council will support proposals for new residential development in certain circumstances and we consider those as follows.

- *The site is not allocated or protected for another use:* As above, the site is not allocated for any other use and is shown as white land within the settlement boundary.
- *The proposal is consistent with the character and pattern of development in the surrounding area:* Noting that the neighbouring uses are residential, appropriate residential re-use of the site is therefore considered to be acceptable in principle, subject to detailed considerations.

As can be seen on the drawings submitted this layout is comparable to the size and density of the development in the surrounding area. The house will meet with full modern standards including wheelchair accessibility and will be accessed via a private driveway from the adjacent public road with off street parking provided within the site. The application site covers an area of 539.8 m². The proposed plot sizes and garden ground and other criteria as stipulated by Advice Note 14 - Small Housing Sites have been complied with. Additionally, the requirements with regard to aspect, privacy, private garden and distance between properties can also be addressed. Separation from the existing properties to the south to the proposed gable wall comply with the guidance distances and the incorporation of a close boarded timber fence along Keptie Road is a suitable continuation of the approach already taken to enclose the private amenity space of the existing properties to the south.

It is proposed to connect the new houses to the existing mains drainage and water supply networks, with surface water provision taking full recognition of current SUDS requirements. The property will be constructed to meet the requirements of the current building standards and as such will meet the required energy efficiency, carbon emissions, accessibility, and sustainability requirements.

In conclusion, the site is considered to be appropriate for residential redevelopment in principle and the submitted indicative layout shows how the site could potentially be developed. It is therefore considered entirely appropriate for planning permission in principle to be granted for two residential units with relevant conditions regarding matters of siting, design, access and boundary treatment.





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 100541219-001

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

Type of Application

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

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

Description of Proposal

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

Proposed 2 no. new house plots on existing grass area at Condor Drive.

Is this a temporary permission? *

Yes No

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

Yes No

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

No Yes – Started Yes - Completed

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Architects Scotland Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	@rchitects	Building Name:	
Last Name: *	Scotland Ltd	Building Number:	50
Telephone Number: *	01307 466480	Address 1 (Street): *	Castle Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Forfar
Fax Number:		Country: *	Angus
		Postcode: *	DD8 3AB
Email Address: *	admin@rchitects.org.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	-
First Name: *	John	Building Number:	
Last Name: *	Carswell	Address 1 (Street): *	Newmains
Company/Organisation	Carswell Properties Ltd.	Address 2:	Duncan Avenue
Telephone Number: *		Town/City: *	Arbroath
Extension Number:		Country: *	Angus
Mobile Number:		Postcode: *	
Fax Number:			
Email Address: *	admin@rchitects.org.uk		

Site Address Details

Planning Authority:

Angus Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Existing grass area between Condor Drive and Keptie Road.

Northing

741683

Easting

362745

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

539.80

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

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

Existing grass area

Access and Parking

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

Yes No

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

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

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

Water Supply and Drainage Arrangements

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

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

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

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

Note:-

Please include details of SUDS arrangements on your plans

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

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

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

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

Assessment of Flood Risk

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

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

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

Trees

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

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

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? * Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 * Yes No Don't Know

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

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

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? * Yes No

Certificates and Notices

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

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

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: @rchitects Scotland Ltd

On behalf of: Carswell Properties Ltd.

Date: 08/03/2022

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

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

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

Yes N/A

A Design Statement or Design and Access Statement. *

Yes N/A

A Flood Risk Assessment. *

Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *

Yes N/A

Drainage/SUDS layout. *

Yes N/A

A Transport Assessment or Travel Plan

Yes N/A

Contaminated Land Assessment. *

Yes N/A

Habitat Survey. *

Yes N/A

A Processing Agreement. *

Yes N/A

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

Declare – For Application to Planning Authority

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

Declaration Name: . @rchitects Scotland Ltd

Declaration Date: 08/03/2022

Payment Details

Pay Direct

Created: 08/03/2022 14:41

APPENDIX 3

FURTHER LODGED REPRESENTATIONS

From: [REDACTED]
To: [Sarah Forsyth](#)
Subject: Re: Application for Review - Land between Condor Drive and Keptie Road Arbroath
Date: 11 January 2023 06:04:22
Attachments: [image0.jpeg](#)
[image1.png](#)
[image2.jpeg](#)

Morning

I have attached 2 photos of the land pictured within the last 2 years. This is to show that it actually was an open space area enjoyed by many in the neighbourhood. One photo is it as an open space. The second one is late 2021 when they erected temporary fencing around the site after it was de turfed prior to the planning application. This temporary fencing was then replaced with permanent fencing with signs put up saying no ball games and private property keep out to deter usage of the open space. They have also made sure there is no access to the open space.

So their statement of it always being totally fenced off is incorrect.

My second point is that the planned site is going to be side on to my front elevation which I have major concerns about the amount of light it will restrict in too one of my daily main living areas where we spend most our time in the house. I believe if they build where they build a two floor house I will have to use artificial lighting constantly in that living area to allow adequate lighting because the ground in between that site and my downstairs living area is raised so it will block what light I get. It will also potentially block the light to those at number 4 Condor Drive and stop them from ever being able to build off-road parking in the future.

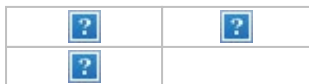
I wasn't going to send any email or reply but I am annoyed that they are trying to say this was always completely fenced off trying to make out that it's been the way it is for years, when in fact it wasn't.

Have a good day!

Many thanks

Regards

Neville Henry



Sent from my iPhone

On 10 Jan 2023, at 13:44, Neville Henry <[REDACTED]> wrote:

Sent from my iPhone

On 10 Jan 2023, at 13:42, Sarah Forsyth
<ForsythSL@angus.gov.uk> wrote:

Dear Neville

Please find attached the Notice of Review document and the statement of appeal. I have also attached the officer handling report which I hope you will find helpful.

Kind regards

Sarah

Sarah Forsyth | Committee Officer | Angus Council | T: 01307 491985 |
ForsythSL@angus.gov.uk | www.angus.gov.uk
Work pattern: Mon, Tues (am) & Thurs

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Think green – please do not print this email

From: [REDACTED] >
Sent: 09 January 2023 12:55
To: Sarah Forsyth <ForsythSL@angus.gov.uk>
Subject: Re: Application for Review - Land between Condor Drive and Keptie Road Arbroath

Afternoon

Thanks for your email

I would like to view all documents associated and including the notice of review.

Thanks

Regards

Neville Henry

Sent from my iPhone

On 9 Jan 2023, at 10:12, 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 in Principle for Erection of Two Dwellinghouses at Land between Condor Drive and Keptie Road, Arbroath – Carswell Properties Ltd

Application No 22/00176/PPPL - DMRC-16-22

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 considered 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
Work pattern: Mon, Tues (am) & Thurs

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<Decision Notice.pdf>

<DOC 1 Statement of NoR.pdf>

<Notice_of_Review-2.pdf>

<Report of Handling.pdf>

 **21 July 2020**
11:17




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APPENDIX 4

APPLICANT'S RESPONSE TO FURTHER LODGED REPRESENTATIONS

Sarah Forsyth
Committee Officer
Angus Council



My Ref:EM/014

6th February 2023

Dear Sarah,

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

Application for Review – Refusal of Planning Permission in Principle for Erection of Two Dwellinghouses at Land between Condor Drive and Keptie Road, Arbroath – Carswell Properties Ltd

Application No 22/00176/PPPL - DMRC-16-22

Further to receipt of the recent representation submitted by Neville Henry, the following is the appellants interim response.

We note that Mr Henry apparently did not submit a representation of objection to the original application. Indeed, the Officers Report of Handling confirms that two letters of representation were received “*offering general comment*”. There were therefore no third party objections submitted to the original application.

In this submission of response, we are assuming that due to the nature of comments in Mr Henry’s second point, that he lives adjacent to the site. Clarification would be appreciated as in his second point, Mr Henry refers to his “*front elevation*” and alleged restriction of light to one of his main daily living rooms. Meantime, we respond as follows and please note that for ease of reference, we have cut and paste Mr Henry’s submission below, with the appellants responses directly following where indicated.

NH: I have attached 2 photos of the land pictured within the last 2 years. This is to show that it actually was an open space area enjoyed by many in the neighbourhood. One photo is it as an open space. The second one is late 2021 when they erected temporary fencing around the site after it was de turfed prior to the planning application. This temporary fencing was then replaced with permanent fencing with signs put up saying no ball games and private property keep out to deter usage of the open space. They have also made sure there is no access to the open space. So their statement of it always being totally fenced off is incorrect.

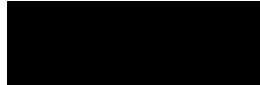
Response: The applicant / appellant has never stated that the subject land has “*always been totally fenced off*”. The fence was erected by the landowner to formally differentiate between this area of private ownership and the grassed area directly to the north. Whilst the land directly to the north has the appearance of a common grassed amenity area and is in joint third party ownership with no general public rights, the application site is completely separate and in individual private ownership. There are no rights of common access and the site is clearly fenced off from the open space area to the north. It is therefore differentiated from the area to the north through clear boundary demarcation, character, land use and ownership, which is all reflected by the lack of public / neighbour objection to the application proposals. It is a clear material consideration therefore that the subject land is not and never will be public open space.

NH: My second point is that the planned site is going to be side on to my front elevation which I have major concerns about the amount of light it will restrict in too one of my daily main living areas where we spend most our time in the house. I believe if they build where they build a two floor house I will have to use artificial lighting constantly in that living area to allow adequate lighting because the ground in between that site and my downstairs living area is raised so it will block what light I get. It will also potentially block the light to those at number 4 Condor Drive and stop them from ever being able to build off-road parking in the future.

Response: As above, we would be grateful if Mr Henry's address could be provided so we can properly assess his second point regarding alleged amount of light into one of his living rooms. Meantime, we would simply comment that all the required Angus Council separation distances to adjacent properties have been incorporated into the application / NoR submissions and therefore comply with Council policy.

Kind regards.

Yours sincerely,

A black rectangular redaction box covering the signature of Ewan A Maclean.

Ewan A Maclean MRTPI
EMac Planning