

Appendix 2 - Summary of applicant's supporting information

Planning Statement:

The statement indicates the applicant would be prepared to erect a new post and wire fence on the line of the previous fence on Old Whisky Road and vehicular access for both the construction of and future access to the proposal would be taken from The Brae. They also suggest the applicant would donate land free of charge at The Brae/Old Whisky Road junction to enable junction improvements to be carried out in the future should the homeowners in Old Whisky Road choose to do so. The statement suggests this would allow significant improvements to road safety be made for the users of both The Brae and Old Whisky Road.

The statement indicates the applicant's solicitor has advised the condition purporting to allow only a single dwellinghouse being permitted on the site is contained in a Feu Disposition of 1962. It is suggested that such condition became unenforceable following the Abolition of Feudal Tenure etc. (Scotland) Act 2000 unless the feudal superior registered a notice to preserve the condition before a certain date. It is suggested no such notice was registered by the Superior and consequently the condition is no longer enforceable. The document states the Registers of Scotland were charged with the task of removing old conditions which were no longer relevant or enforceable from titles. However, the enormity of this task, given the number of properties and titles, was subsequently recognised and this requirement was withdrawn and as a result, old conditions of this type continue to appear in titles even though the conditions are no longer enforceable.

Response to public concerns:

This document provides a response to a number of the matters raised in objection to the proposal.

It notes that the named address for the application should be Land South of the Whins, The Brae, Kirkton of Auchterhouse DD3 0RD [this has been amended].

The response suggests an 'Application to Compare a Bounding Description with the Ordnance Map' to Registers of Scotland for the plot at The Whins Auchterhouse confirms 'The boundaries of the subjects coincide with those on the Ordnance Map' and that the plot is bounded 'on or towards the southwest by a road known as the "Old Whisky Track" Auchterhouse along which it extends Two hundred and Seventeen feet or thereby". It intimates that this confirms the road is the southern boundary of the site and the verges in this area form part of The Whins land. The document indicates the proposal does not include a change of use as the application site is already domestic garden ground.

The document states that the sightlines required at the new access do not require any trees to be felled in Janda or The Whins and the neighbours entrance walls are located outwith the sightlines as shown on the submitted site plan. The response indicates that the proposed driveway will be finished with gravel with a verge either side and the existing burn would be culverted under this. *[Subsequent information provided by the agent confirms that the 2.5 x 25m sightlines shown on early iterations of the submitted drawings cannot be achieved, but advise that an engineer has confirmed that sightlines of 2.0 x 25m can be achieved]*

It also indicates that the proposed house would sit approx. 2.6m higher than the burn level and the site does not feature on SEPAs flood map. It suggests that it is in the interests of the landowner to maintain and ensure the continuing free flow of the watercourse/burn flowing North-South through their land and the construction of a new dwelling will not exacerbate any existing flooding issues. The statement indicates the proposal could lessen flooding

issues due to the fact that all roof water surface run-off would be directed to a surface water soakaway within the confines of the plot and in doing so reducing the runoff from the existing site that slopes down to the watercourse. It also suggests the building of a new property on the site would have no adverse effect on existing flooding issues downstream.

With regards to trees, the response suggests that a number of trees located on the site were felled by SSE in the interests of general safety and no tree felling licence was necessary.

Sun path information

This document provides a sun path diagram to demonstrate the impact of the shadows cast upon the proposed dwelling from the trees located to the east of the site at different times of the day during each season. A number of photos and visualisations are included to illustrate likely impacts. The document concludes that the shadows cast upon the proposed building as a result of the trees running up the eastern boundary are minimal. At the worst-case scenario, on Summer Solstice (21st June), the house is in shade until at 9am but this has quickly receded to shade only a small section of the garage by 12pm. During the remaining months shown, generally the garage portion of the building is in shadow at 9am - with the house itself in sunshine along with the garden - but this is in sunshine by around 10am. Therefore the document intimates that the shadow causes no detrimental impact as the majority of the day the house is bathed in sunlight as is most of the garden ground in front of the house which has no overshadowing from the trees.