

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 27 NOVEMBER 2023

13 TAYSIDE STREET, CARNOUSTIE

REPORT BY THE DIRECTOR OF LEGAL, GOVERNANCE & CHANGE

ABSTRACT:

The Committee is asked to consider an application for a review of the decision taken by the planning authority in respect of the refusal of planning permission for retrospective log burning stove and flue on summerhouse, application No 23/00171/FULL, at 13 Tayside Street, Carnoustie.

1. RECOMMENDATIONS

It is recommended that the Committee:-

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

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN

This Report contributes to the following local 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. NEW INFORMATION

The Planning Review Statement submitted by the applicant includes matters which were not raised in the first instance to the planning authority when the application was submitted.

The Town & Country Planning (Scotland) Act 1997 states:

43B Matters which may be raised in a review under section 43A

- (1) In a review under section 43A(8), a party to the proceedings is not to raise any matter which was not before the appointed person at the time the determination reviewed was made unless that party can demonstrate—
 - (a) that the matter could not have been raised before that time, or
 - (b) that its not being raised before that time was a consequence of exceptional circumstances.

Accordingly, the applicant may not raise new matters unless those matters could not have been raised before or exceptional circumstances explain which matters were not raised before.

The applicant explains the reasons for raising the new matters in the Notice of Review application.

The Committee requires to determine if the foregoing statutory requirements have been met. Should the Committee decide that the requirements have not been met, then the Committee must not take those new matters into account when determining the Review.

5. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

6. EQUALITY IMPACT ASSESSMENT

An equality impact assessment is not required.

7. 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.

Report Author: Sarah Forsyth
E-Mail: LEGDEM@angus.gov.uk

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 – 23/00171/FULL

APPLICANT – Mr and Mrs Roach

**PROPOSAL & ADDRESS – Retrospective Log burning stove and flue on
summerhouse at 13 Tayside Street, Carnoustie, DD7 6AX**

CONTENTS

AC1	Report of Handling	
	Policy tests (Angus Local Development Plan 2016, National Planning Framework 4 and other relevant guidance)	
	<p>Angus Local Development Plan 2016</p> <p>Policies DS1, DS3, DS4, TC4, PV4, PV5, PV7, PV8, PV12, PV13, PV15</p> <p>NPF 4 - <i>Policies 1,2,3,4,6,7,14,16,18, 22, 23</i></p> <p>Angus Local Development Plan https://www.angus.gov.uk/sites/default/files/Angus%20local%20development%20plan%20adopted%20September%202016.pdf</p> <p>NPF 4 https://www.gov.scot/publications/national-planningframework-4/</p> <p>Householder Development Planning Advice Note https://www.angus.gov.uk/media/householder_development_planning_advice_note_september_2016</p>	
	Consultation Responses	
AC2	Roads Traffic – 14.04.23	
AC3	Environmental Health – 10.05.23	
	Letters of Representation	
AC4	Mr Donald and Carol Ford - Email and Photo (showing flue and	

	stove in use taken by Mr & Mrs Ford)	
AC5	Su Nicoll	
AC6	Mrs Heather Fraser	
AC7	Mrs Lisa Simpson	
AC8	Mr Michael Robertson	
	Application Drawings	
AC9	Existing Site Plan and Location Plan	
AC10	Refused Plans and Elevations	
AC11	Refused Proposed Site Plan and Location Plan	
	Further Information Relevant to Assessment	
AC12	Refused Decision Notice	
	Supporting Information	
AC13	Applicants Letter of Support for Flue and Wood Burning Stove	

Angus Council

Application Number:	23/00171/FULL
Description of Development:	Retrospective Log burning stove and flue on summerhouse
Site Address:	13 Tayside Street Carnoustie DD7 6AX
Grid Ref:	356866 : 734539
Applicant Name:	Mr & Mrs Roach

Report of Handling

This application seeks planning permission for the re-sitting of an existing unauthorised woodburning stove flue located on the roof of an approved garden room, to an alternative location on the roof of the garden room further from the eastern boundary of the site. The flue would be of a similar scale and design to the existing unauthorised flue located on the building.

Variations

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The nature of the proposal did not require that the application be the subject of press advertisement.

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

Planning History

22/00509/FULL for Retrospective Garden Room, Log Burning Stove and deck was determined as "approved subject to conditions" on 9 December 2022. A condition was attached to this permission requiring the cessation of the use of the flue and associated stove, and for their removal from the approved garden room within 3 months of the date of the decision.

Enforcement case ref: 22/00004/UNDV relates to the erection of the aforementioned garden room and flue. The garden room has been regulated as per the above permission, but the enforcement case remains open in relation to the wood burning stove flue.

Applicant's Case

The agent has supplied a letter of support for the applicant which advises they are prepared to reposition the flue to a location nearly 5.3 metres from the eastern site boundary and the area of garden/drying green that the easterly neighbour seeks to protect. The letter states the stove has been installed by qualified and certified log burning stove fitters (who have recommended the correct fuel) and that there are examples of similarly fitted wood burning stoves in the area, some of which are close by. It suggests a judgement has been made to side with an objector without actual evidence of inconvenience or of nuisance. The letter submits that the Environmental Health Department has used a value judgement on the original flues position (that it is too close to the boundary) and presumably that the applicants use of a log burning stove always coincides with a south-west wind. The agent states the applicant has the right to enjoy their garden and properties amenity as much as the neighbours do and the compromise of re-positioning the flue will allow both parties to enjoy their amenity. The agent seeks evidence and the dates on which the Environmental Health Department judged that there was a nuisance caused when the log burning stove in its existing position and have advised they would be happy to have the stove tested. The letter concludes that the application should be assessed against policy and written standards/regulation not influenced by an objection. It

suggests that the degree of inconvenience of the flue would be minimal given the times it would be in use and the number of times it is used (e.g., it would not be a daily occurrence and would not be used at all during the summer/autumn months).

Consultations

Environmental Health (Arbroath) - Object to the proposal and advise they have considered the revised application and the applicant's letter of support but are still not in a position to support the proposal due to the proximity of the flue to neighbouring properties and their amenity space.

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

Roads (Traffic) - Offers no objection to the proposal.

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

Representations

6 letter(s) of representation have been received from 5 households. 2 letters in objection and 4 in support.

The main points of objection are as follows:

- failure to comply with condition on previous planning permission (ref: 22/00509/FULL) requiring removal of the flue and log burning stove.
- retrospective nature of the current application.
- impacts upon amenity by way of air quality impacts.
- there are no chimneys in any gardens, only tall chimneys on houses in the area.

The main points of support were as follows:

- given its limited use and location, smoke should not cause a nuisance and existing use has not caused any amenity impacts.
- the minimal levels of smoke emitted would disperse quickly.
- wood burning stoves and flues are common in the area.

The comments have been considered and are discussed further in the assessment section below.

Development Plan Policies

National Planning Framework 4 (NPF4)

Policy 1 Tackling the climate and nature crises

Policy 2 Climate mitigation and adaptation

Policy 3 Biodiversity

Policy 4 Natural places

Policy 6 Forestry, woodland and trees

Policy 7 Historic assets and places

Policy 14 Design, quality and place

Policy 16 Quality homes

Policy 18 Infrastructure first

Policy 22 Flood risk and water management

Policy 23 Health and safety

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities

Policy DS3 : Design Quality and Placemaking

Policy DS4 : Amenity

Policy TC4 : Householder / Domestic Development

Policy PV4 : Sites Designated for Natural Heritage and Biodiversity Value

Policy PV5 : Protected Species

Policy PV7 : Woodland, Trees and Hedges

Policy PV8 : Built and Cultural Heritage

Policy PV12 : Managing Flood Risk
 Policy PV13 : Resilience and Adaptation
 Policy PV15 : Drainage Infrastructure

The full text of the relevant development plan policies can be viewed in the documents referenced above.

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. Regard has also been had for sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 in so far as they are relevant to this case.

In this case the development plan comprises: -

- National Planning Framework 4 (NPF4) (Published 2023)
- Angus Local Development Plan (ALDP) (Adopted 2016)

The development plan policies relevant to the determination of the planning application are reproduced at Appendix 1 and have been taken into account in preparing this report.

The ALDP was adopted in September 2016 while NPF4 was adopted in February 2023. Planning legislation indicates that where there is any incompatibility between the provision of the national planning framework and the provision of a local development plan, whichever of them is the later in date is to prevail.

NPF4 Policy 16 states that householder development proposals will be supported where they do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and do not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking. NPF4 Policy 23 seeks to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing. Part (d) of the policy indicates that development proposals that are likely to have significant adverse effects on air quality will not be supported.

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

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

In addition, ALDP Policy DS4 also seeks to safeguard amenity and requires all proposed development to have regard to opportunities for maintaining and improving environmental quality. It indicates that 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. The policy identifies matters that will be taken into account, including air quality, and recognises that in some circumstances it will be appropriate to approve proposals that give rise to amenity impacts where they can be mitigated.

The proposal relates to the re-siting of a retrospective flue and associated wood burning stove within an existing garden room which was approved as part of planning application ref: 22/00509/FULL. The garden room is located within the rear garden of the application property and in close proximity to the eastern boundary shared with 14 Tayside Street. The proposal seeks to move the unauthorised flue from its current position near the east edge of the roof, which is around 1.6 metres from the easterly site boundary to the westerly side of the roof which is approximately 4.8 metres from the easterly boundary (as indicated on the submitted drawings).

Given the scale and utilitarian design, the flue raises no issues in terms of visual appearance and the proposal would not alter the existing level of overlooking, overshadowing, available garden ground, parking or bin storage at the site. However, the proposal has the potential to impact on neighbouring amenity as a result of smoke emissions, which would disperse at a relatively low height and in proximity to neighbouring houses and their gardens.

The applicant's supporting information indicates the stove has been installed by qualified and certified log burning stove fitters (who have recommended the correct fuel) and that there are examples of similarly fitted wood burning stoves in the area, some of which are close by. The letter concludes that the proposed re-positioning of the flue will allow both parties to enjoy their amenity and the degree of inconvenience caused by the flue would be minimal given the times it would be in use and the number of times it is used.

The Environmental Health service has considered the proposal and the submitted supporting information and have objected to the development due to the proximity of the flue to neighbouring properties and their amenity space.

Whilst it is acknowledged the flue will not be in continuous use and the smoke from the flue may not always blow in the direction of neighbouring land, the fact that smoke can enter the garden of neighbouring properties at a close proximity and low level the flue has the potential to create disamenity to the neighbour. In considering the above, the flue and associated wood burning stove are considered to be contrary to ALDP Policies DS4 and TC4, and NPF4 Policies 16 and 23 as the flue would result in an unacceptable adverse impact upon the amenity of existing or future occupants of adjoining or nearby properties by way of impacts on air quality, adversely and detrimentally impacting upon the residential amenity and environmental quality enjoyed by surrounding domestic properties.

The agent also seeks evidence and dates on which the Environmental Health service has judged that there was a nuisance caused by the flue in its existing position and states that the application should be assessed against policy and written standards/regulation not influenced by an objection. Photos have been provided by third parties which show evidence of smoke entering neighbouring garden ground from the existing flue, however this proposal relates to the flue as re-sited, and the Environmental Health service has taken a standard approach to considering the proposal by virtue of the flue's proximity to the applicant's boundary and are still unable to offer support for the revised flue location on the basis of amenity impacts. The applicant has not submitted sufficient information to suggest the flue would not create any unacceptable impacts upon the amenity of neighbouring properties.

In respect of material considerations, it is noted that representations have been received in support and in objection to the proposal. The points of support are noted but no odour assessment information has been submitted to demonstrate that the flue would not result in an unacceptable impact upon neighbouring properties and although there may be existing flues in the area each case is to be judged on its own individual merit and in accordance with relevant policies and guidance extant at the time of determination.

In terms of matters raised in objection to the proposal, as noted above, the flue raises no issues in terms of its appearance but has the potential to cause disamenity due to smoke/odour emissions as a result of the low height of the flue and its proximity to neighbouring property. With regards to the retrospective nature of the current application, planning legislation makes provision for the submission of retrospective planning applications. In terms of the concerns raised in relation to any failure to comply with conditions on a previous planning permission, this situation is being monitored by way of an open enforcement case and it would be remiss for the planning authority to take further action against the current flue at this time, while the revised proposal is being considered.

In conclusion, the proposal is contrary to the provisions of Policies DS4 and TC4 of the Angus Local Development Plan and the Householder Development Planning Advice Note and NPF4 Policies 16 and 23, as the flue would result in unacceptable adverse impacts upon the amenity of existing or future occupants of adjoining or nearby properties by way of impacts on air quality and there are no material considerations that would justify approval of the application.

Human Rights Implications

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

Decision

The application is Refused

Reason(s) for Decision:

1. That the proposed woodburning stove flue, by virtue of its close location and low height in relation to neighbouring houses and associated gardens, is contrary to Policies DS4 and TC4 of the Angus Local Development Plan and the Householder Development Planning Advice Note and Policies 16 and 23 of National Planning Framework 4, as it would result in an unacceptable adverse impact upon the amenity of existing or future occupants of adjoining or nearby properties by way of impacts on air quality.

Notes

Case Officer: Pauline Chalmers
Date: 31 May 2023

ANGUS COUNCIL

PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

23/00171/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

14	04	23
----	----	----

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

Subject:

From: Martin Petrie <PetrieM@angus.gov.uk>

Sent: 10 May 2023 14:26

To: Pauline E Chalmers <ChalmersPE@angus.gov.uk>

Cc: Steven D Thomson <ThomsonSD@angus.gov.uk>

Subject: RE: Retrospective Planning Application 13 Tayside Street Carnoustie 23/00171/Full

Hi Pauline

I have had a chance to look over the latest application including the applicant letter of support and I can advise that I am still not in a position to support this application due to the proximity of the flue to neighbouring properties and their amenity space.

If you have any further queries please do not hesitate to contact me.

Kind regards

Martin

Comments for Planning Application 23/00171/FULL

Application Summary

Application Number: 23/00171/FULL

Address: 13 Tayside Street Carnoustie DD7 6AX

Proposal: Retrospective log burning stove and flue on summerhouse

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Donald and Carol Ford

Address: 14 Tayside Street Carnoustie

Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:

14, Tayside Street,

Carnoustie

DD7 6AX

17th. April, 2023

Planning Service,

Angus Council

TO WHOM IT MAY CONCERN

We refer to the notice for serving on neighbours (the Planning Application Reference of which is 23/00171/FULL) which we received from you. It refers to a retrospective application from our neighbours at number thirteen to grant permission for a log burning stove and chimney, both of which were previously refused by your Director of Environmental Health.

The Director instructed the aforementioned to be removed within three months. (Our previous correspondence fully describes the objections we raised on health, smoke and unacceptable visual aspects.) Rather than comply with your Director's instructions, the agent (Brunton Design) has encouraged Mr and Mrs. Roach to lodge a retrospective planning application.

The original instruction by the Director of Environmental Health left no doubt that the structures referred to were unacceptable. Why has Mr Brunton not adhered to the Director's decision?

Contrary to the observations by Mr Brunton, there are no chimneys whatsoever in any gardens in the area. (They are all tall chimneys on the roofs of houses.)

Mr Brunton's recommendation to move the chimney to a different corner of the structure will make not the slightest difference - in fact, the direction of the smoke from the chimney would be even nearer our lounge windows.

Bearing in mind our objections to the retrospective application, should this stove and chimney be allowed to stay (against Environmental Health decisions), we would have no alternative but to seek legal advice.

Donald and Carol Ford

Pauline E Chalmers

From: Carol Ford

Sent: 17 May 2023 21:10

To: Pauline E Chalmers <ChalmersPE@angus.gov.uk>; Daniel Coleman <ColemanD@angus.gov.uk>; Martin Petrie <PetrieM@angus.gov.uk>

Subject: Chimney at 13 Tayside St. Carnoustie

Further comment from us and in case the photos did not open on the planning web page.. please see below..

Regards,

Carol and Donald (No.14)





Comments for Planning Application 23/00171/FULL

Application Summary

Application Number: 23/00171/FULL

Address: 13 Tayside Street Carnoustie DD7 6AX

Proposal: Retrospective log burning stove and flue on summerhouse

Case Officer: Pauline Chalmers

Customer Details

Name: Su Nicoll

Address: 17 Tayside Street Carnoustie

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: We have no objections at all to the occasional use of a small log burning stove at our neighbour's garden cabin. As we live in a quite exposed area the minimal levels of smoke emitted would disperse quickly, as they do with other uses of similar sources of heat in the area. It is difficult to see how it could cause a nuisance given its limited use and its location.

Comments for Planning Application 23/00171/FULL

Application Summary

Application Number: 23/00171/FULL

Address: 13 Tayside Street Carnoustie DD7 6AX

Proposal: Retrospective log burning stove and flue on summerhouse

Case Officer: Pauline Chalmers

Customer Details

Name: Mrs Heather Fraser

Address: 11 Tayside Street Carnoustie

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I have no objection to the log burning stove within the summerhouse at 13 Tayside street. As the stove is within an open space I cannot see that smoke should be an issue. There are quite a few open and log burning stoves within the area

Comments for Planning Application 23/00171/FULL

Application Summary

Application Number: 23/00171/FULL

Address: 13 Tayside Street Carnoustie DD7 6AX

Proposal: Retrospective log burning stove and flue on summerhouse

Case Officer: Pauline Chalmers

Customer Details

Name: Mrs Lisa Simpson

Address: 10 Tayside Street, Carnoustie DD7 6AX

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:As previously mentioned, we have no issue with the planning application submitted and believe the structure has been tastefully completed and a welcome addition to the area. As we have observed the garden room over the winter months the log burner has rarely been utilized and on the odd occasion it has been it causes no problem to the surrounding area.

Environmentally I can't see why this would pose any more issues than the multiple log burners installed in many people's houses and garden rooms throughout Carnoustie and on Tayside Street?? For example, the new development of houses on David Moyes Road which have log burners installed at a similar height and in close proximity to neighbouring properties.

Comments for Planning Application 23/00171/FULL

Application Summary

Application Number: 23/00171/FULL

Address: 13 Tayside Street Carnoustie DD7 6AX

Proposal: Retrospective log burning stove and flue on summerhouse

Case Officer: Pauline Chalmers

Customer Details

Name: Mr Michael Robertson

Address: 15 Tayside Street Carnoustie

Comment Details

Commenter Type: Member of Public

Stance: Customer made comments in support of the Planning Application

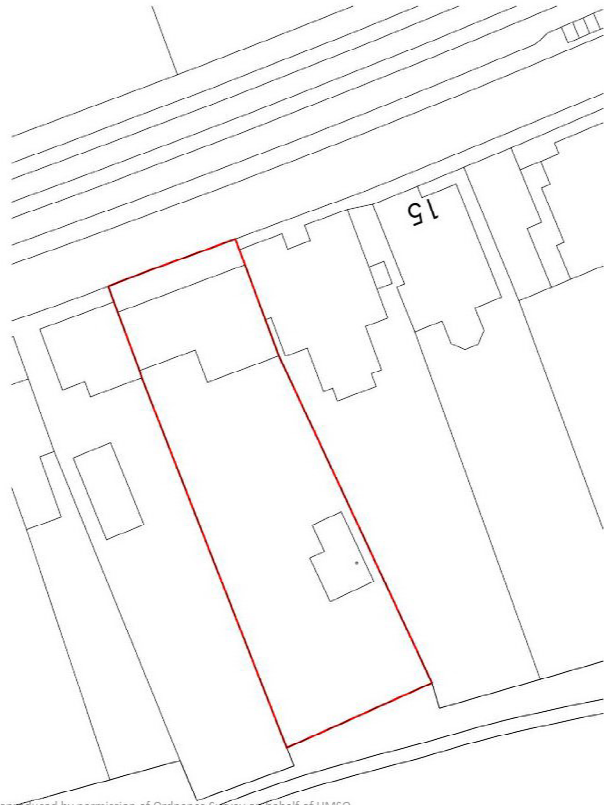
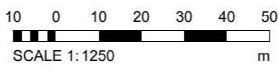
Comment Reasons:

Comment: We have no objection to the log burning stove and flue at number 13 as it will not be on in spring or summer and only occasionally in winter when we will not be in the garden and our windows will be shut.



Reproduced by permission of Ordnance Survey on behalf of HMISO.
 © Crown Copyright and database rights 100023404, 2023

Location Plan
 1 : 1250

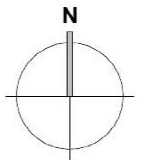


Reproduced by permission of Ordnance Survey on behalf of HMISO.
 © Crown Copyright and database rights 100023404, 2023

Site Plan
 1 : 500



BRUNTON DESIGN
 CHARTERED ARCHITECTS

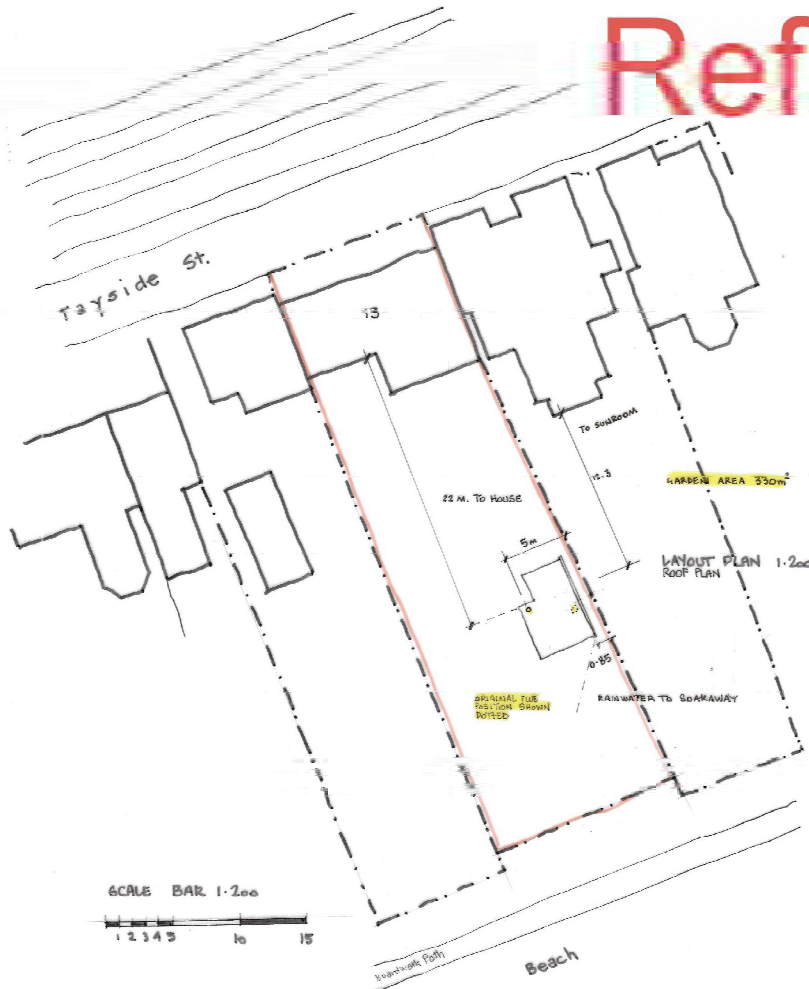


A	Planning App	25/07/22
REV	Description	Date
Client:	Mr and Mrs Roach	
Project:	Retrospective Planning Application for Garden Room and Log Burning stove and Deck 13 Toyah St, Carnoustie	
Sheet Name:	Location and Site Plans	
Drawing Number:	2614_D_001 A	

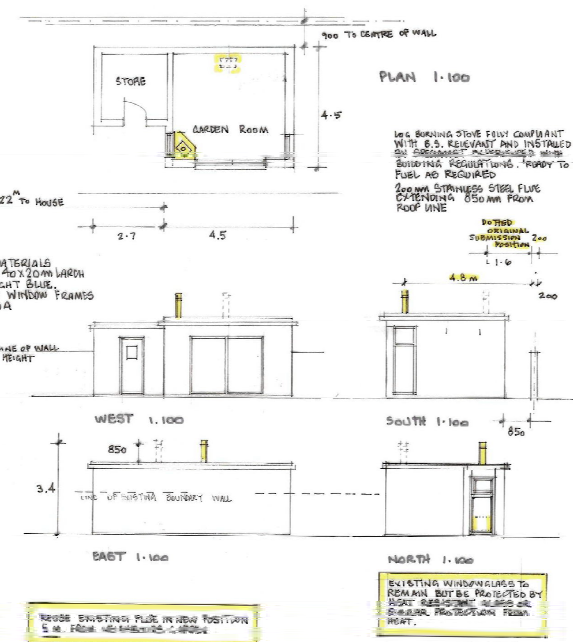
© BRUNTON DESIGN | CHARTERED ARCHITECTS
 w: bruntondesign.com
 a: design studio, 95 dundee street, camoustie, dd7 7ew
 t: 01241 858133 f: 01241 858154
 e: architects@bruntondesign.com

PLAN 2614_A

Refused



SCALE BAR 1:200



REUSE EXISTING FLUE IN NEW POSITION
5 M. FROM NEAREST CORNER

EXISTING WINDOWLIGHS TO REMAIN BUT BE PROTECTED BY BEST RESISTANT GLASS OR SHUTTER PROTECTION FROM HEAT.

RETROSPECTIVE PLANNING APPLICATION FOR GARDEN ROOM AND LOG BURNING STOVE AND DECK.
MR and MRS ROACH
13 TRYSIDE ST. CAROLISTE

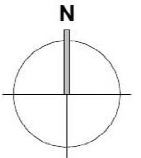
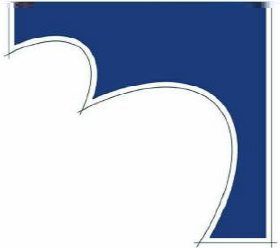
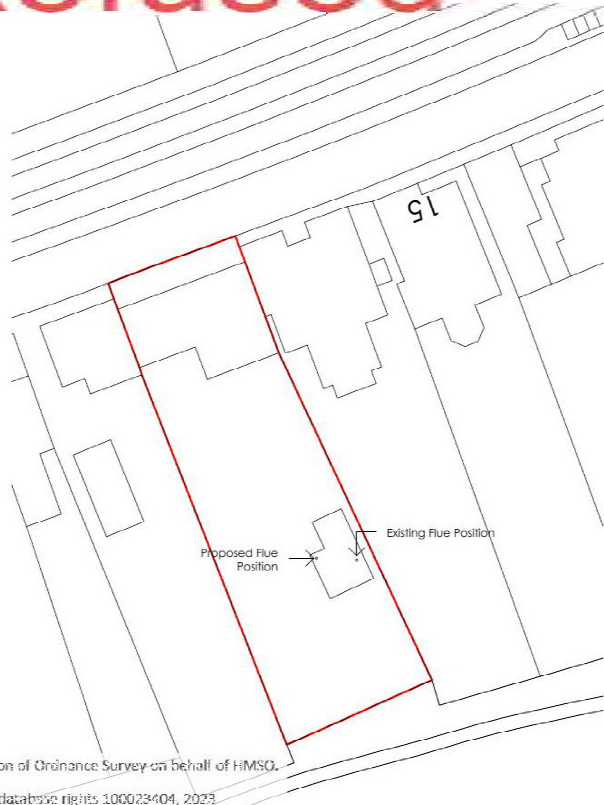
JOB N° 2614 DRAW. N° 02 A RESUBMISSION 15/3/20
march 2023

BRUNTON DESIGN
CHARTERED ARCHITECTS

Refused

Refused

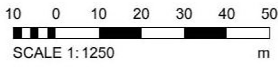
BRUNTON DESIGN
CHARTERED ARCHITECTS



Reproduced by permission of Ordnance Survey on behalf of HMSO.

© Crown Copyright and database rights 100023404, 2023

Location Plan
1 : 1250



Site Plan
1 : 500



A	Planning App	25/07/22
B	Planning Amendments	27/03/23
REV	Description	Date
Client: Mr and Mrs Roach		
Project: Retrospective Planning Application for Garden Room and Log burning stove and Deck 13 Toyah St, Carnoulet		
Sheet Name: Location and Site Plans		

Refused

2614 D 001 B

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



**PLANNING PERMISSION REFUSAL
REFERENCE : 23/00171/FULL**

To **Mr & Mrs Roach
c/o Brunton Design
95 Dundee Street
Carnoustie
Angus
DD7 7EW**

With reference to your application dated 3 April 2023 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Retrospective Log burning stove and flue on summerhouse at 13 Tayside Street Carnoustie DD7 6AX for Mr & Mrs Roach

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

The reasons for the Council's decision are:-

- 1 That the proposed woodburning stove flue, by virtue of its close location and low height in relation to neighbouring houses and associated gardens, is contrary to Policies DS4 and TC4 of the Angus Local Development Plan and the Householder Development Planning Advice Note and Policies 16 and 23 of National Planning Framework 4, as it would result in an unacceptable adverse impact upon the amenity of existing or future occupants of adjoining or nearby properties by way of impacts on air quality.

Amendments:

The application has not been subject of variation.

Dated this **21 June 2023**

Jill Paterson
Service Lead
Planning and Sustainable Growth
Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

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

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

DURATION

The duration of any permission granted is set out in conditions attached to the permission. Where no conditions are attached the duration of the permission will be in accordance with sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

Notification of initiation of development (NID)

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

Notification of completion of development (NCD)

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

Display of Notice while development is carried out

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

The notice must be in the prescribed form and:-

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

A display notice is included with this guidance note.

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

Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Telephone 03452 777 780
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"/>

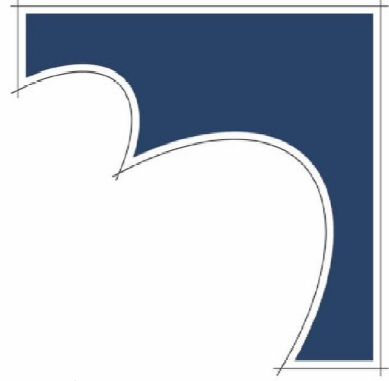
OUTCOME: Outcome of the application:

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	<input type="checkbox"/>	Agent	<input type="checkbox"/>	Third Party objector who made a representation	<input type="checkbox"/>
---------------------------	-----------	--------------------------	-------	--------------------------	--	--------------------------

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



2614/RJHB

Pauline Chalmers
 Angus Council Planning Department

Pauline

Retrospective Garden Room, Log Burning Stove and deck at 13 Tayside Street Carnoustie DD7 6AX

We have re-submitted the Application(Ref 23/00171/FULL) for Mr and Mrs Roach for their lodge garden room and log burning stove following the unacceptable conditional approval received (ref 22/00509/FULL) received 9 December 2022.

Please note the following

1. Mr and Mrs Roach are prepared to compromise on the positioning of the flue and bear the expense of moving it, making it nearly 5.3 metres to the boundary wall and consequently the area of garden/drying green Mr and Mrs Ford seek to protect.
2. The stove has been installed by qualified and certified Log Burning Stove Fitters. They have certified and recommended the correct fuel.
3. There are many examples of similarly fitted wood burning stoves in the area, several of which can be seen from the bottom of Mrs Roach's Garden. The difference in this case seems to be a judgement made in my opinion, to automatically side with an objector without any actual evidence of inconvenience or of nuisance. The garden owned by Mr and Mrs Ford extends to 330m² which in certain circumstances is accepted as a house plot!
4. The Environmental Health Department has used a value judgement on the original flues position that it is too close to the boundary and presumably that the applicants use of a log burning stove always coincides with a south west wind, when the temperature on the beach front justifies the use of the appliance. Mr and Mrs Roach have the right to enjoy their garden and properties amenity as much as Mr and Mrs Ford do.
5. The compromise re-positioning of the flue will allow **both** parties to enjoy their amenity.
6. I would be interested in seeing the evidence and the dates on which the Environmental Health Department judged that there was a nuisance caused when the log burning stove in its existing position was used. The Applicant, would be happy to have the stove tested and indeed witnessed in use when the wind conditions are at their worst ie from the west/south west.
7. The application should be assessed against policy and written standards/regulation not influenced by whether or not a notifiable neighbour has objected. In this case **one** notifiable neighbour and given the shape of the garden's backing onto the beach, there are many who **could** object but who don't, because the degree of inconvenience is minimal given the times it would be in use and the number of times it is used. This is not a daily occurrence and not at all during the summer/autumn months.

I hope that the re-positioning of the flue can resolve the matter, perhaps not to everyone's complete satisfaction but in a fair and reasonable manner to both parties.

Regards,

Rodger Brunton
 for **BRUNTON DESIGN** | CHARTERED ARCHITECTS

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW – 13 TAYSIDE STREET, CARNOUSTIE

APPLICATION NO 23/00171/FULL

APPLICANT'S SUBMISSION

Page No

ITEM 1	Notice of Review
ITEM 2	Statement of Appeal
ITEM 3	Refusal Decision
ITEM 4	Site Plan, Location Plan, Elevations etc
ITEM 5	Inspection Report



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 100588483-004

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:	Brunton Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Edith	Building Name:	
Last Name: *	Pringault	Building Number:	95
Telephone Number: *	01241 858153	Address 1 (Street): *	Dundee Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Carnoustie
Fax Number:		Country: *	Angus
		Postcode: *	DD7 7EW
Email Address: *	admin@bruntondesign.com		

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="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Christine"/>	Building Number:	<input type="text" value="13"/>
Last Name: *	<input type="text" value="Roach"/>	Address 1 (Street): *	<input type="text" value="Tayside Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Carnoustie"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="DD7 6AX"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="admin@bruntondesign.com"/>		

Site Address Details

Planning Authority:	<input type="text" value="Angus Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="13 TAYSIDE STREET"/>
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" value="CARNOUSTIE"/>
Post Code:	<input type="text" value="DD7 6AX"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="734553"/>	Easting	<input type="text" value="356864"/>
----------	-------------------------------------	---------	-------------------------------------

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)

Relocation of existing log burning flue (retrospective flue application refusal)

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 letter 2614_230905 Statement.pdf enclosed as supporting information.

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)

We did not anticipate the requirement to list similar flues in the area.

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 letter, submitted plan for planning application, location and elevations, photographs of site (inspection report)

Application Details

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

23/00171/FULL

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

15/03/2023

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

21/06/2023

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

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

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To see site conditions and and other examples of flues which do not appear to cause any problems to neighbours.

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: Brunton Design Studio Edith Pringault

Declaration Date: 05/09/2023

05 September 2023

Local Review Body
Angus Council

Sir/Madam,

Our Job Ref 2614
Angus Council Ref Planning Application 23/00171/FULL

Full statement on reasons for seeking review on planning application decision

The unfairness of the refusal to the repositioning of the flue related to log burning stove at 15 Tayside Street must be seen in conjunction with the many similar stoves in the immediate vicinity. If a visit to see the existing flue position is made, several other flues will be seen by walking a few metres. The flue that exists is to be moved further away from the boundary entirely at the applicant's expense in an attempt to make compromise.

The refusal decision has been made following the recommendation of the Environmental Health Department of Angus Council who have not visited the site to see the circumstances. It leads to the belief that it depends on whether you live next to a neighbour who is prepared to complain about something and a Local Authority Department who almost reach for a "book" to be seen to respond without actually leaving their desk and have to make a judgement on actuality. Perhaps to avoid answering future continuing complaints.

The following is a list of similar log burning stove flues which exist in the immediate vicinity but which have not been complained about although some are closer to their respective boundaries than this applicant's flue proposed new position.

The applicant's log burning stove is used in the autumn/winter months and at most has been used once or twice a week often in the evening when neither people or washing on a line is being exposed to beach breezes.

There are log burning stove flue in the following properties near the applicant's. They are used without neighbours' comment, the use of similar stoves has been part of the Carnoustie Beach fronts amenity for decades. Mr & Mrs Roach are simply continuing a benign use of their own amenity space. Hopefully the suggested moving of the flue away from the boundary will be seen as a fair compromise and be a way of both parties being allowed to enjoy their garden amenity. Both the gardens are large and exposed to plenty of fresh air.

31 Tayside Street; 22/23 Tayside Street; 6 Seabrae; 6 Tayside Street; 24, 25 Tayside Street

There are many more in Carnoustie and as far as we are aware there are no enforcement actions being taken by the Council. It seems that the trigger is if someone complains, the Council has to be seen to do something to stave off future complaint or 'blame'.

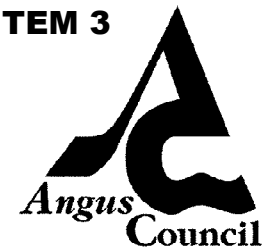
Fortunately, the Review Process allows the Elected Members to apply fairness in the Planning System for all the residents who apply for a consent, not just objectors.

Regards,



Rodger Brunton, DipArch RIBA FRIAS ARB for BRUNTON DESIGN | CHARTERED ARCHITECTS

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



PLANNING PERMISSION REFUSAL
REFERENCE : 23/00171/FULL

To **Mr & Mrs Roach**
c/o Brunton Design
95 Dundee Street
Carnoustie
Angus
DD7 7EW

With reference to your application dated 3 April 2023 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Retrospective Log burning stove and flue on summerhouse at 13 Tayside Street Carnoustie DD7 6AX for Mr & Mrs Roach

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

The reasons for the Council's decision are:-

- 1 That the proposed woodburning stove flue, by virtue of its close location and low height in relation to neighbouring houses and associated gardens, is contrary to Policies DS4 and TC4 of the Angus Local Development Plan and the Householder Development Planning Advice Note and Policies 16 and 23 of National Planning Framework 4, as it would result in an unacceptable adverse impact upon the amenity of existing or future occupants of adjoining or nearby properties by way of impacts on air quality.

Amendments:

The application has not been subject of variation.

Dated this **21 June 2023**

Jill Paterson
Service Lead
Planning and Sustainable Growth
Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

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

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

DURATION

The duration of any permission granted is set out in conditions attached to the permission. Where no conditions are attached the duration of the permission will be in accordance with sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

NOTICES

Notification of initiation of development (NID)

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

Notification of completion of development (NCD)

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

Display of Notice while development is carried out

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

The notice must be in the prescribed form and:-

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

A display notice is included with this guidance note.

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

Angus Council
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Telephone 03452 777 780
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"/>

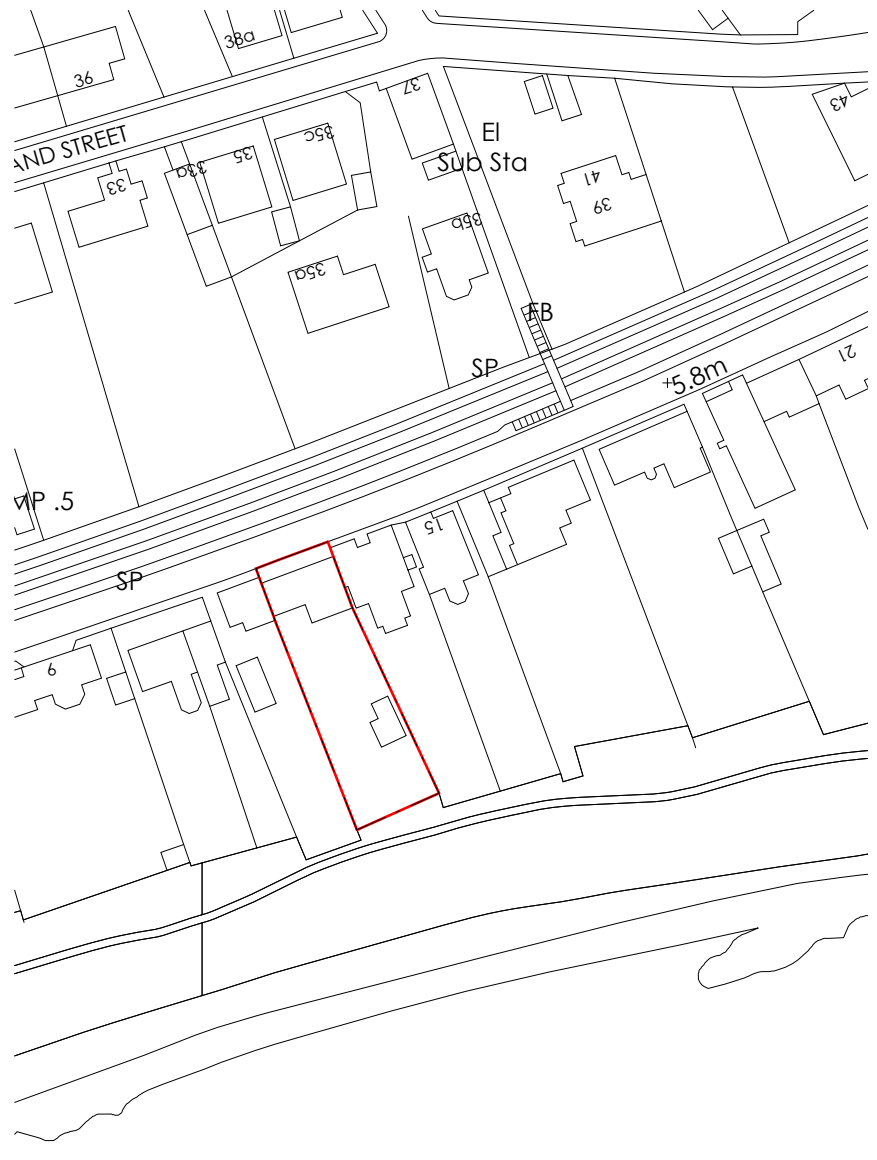
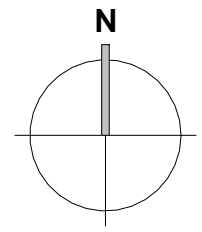
OUTCOME: Outcome of the application:

Q.8 Was the application that you had an interest in:-

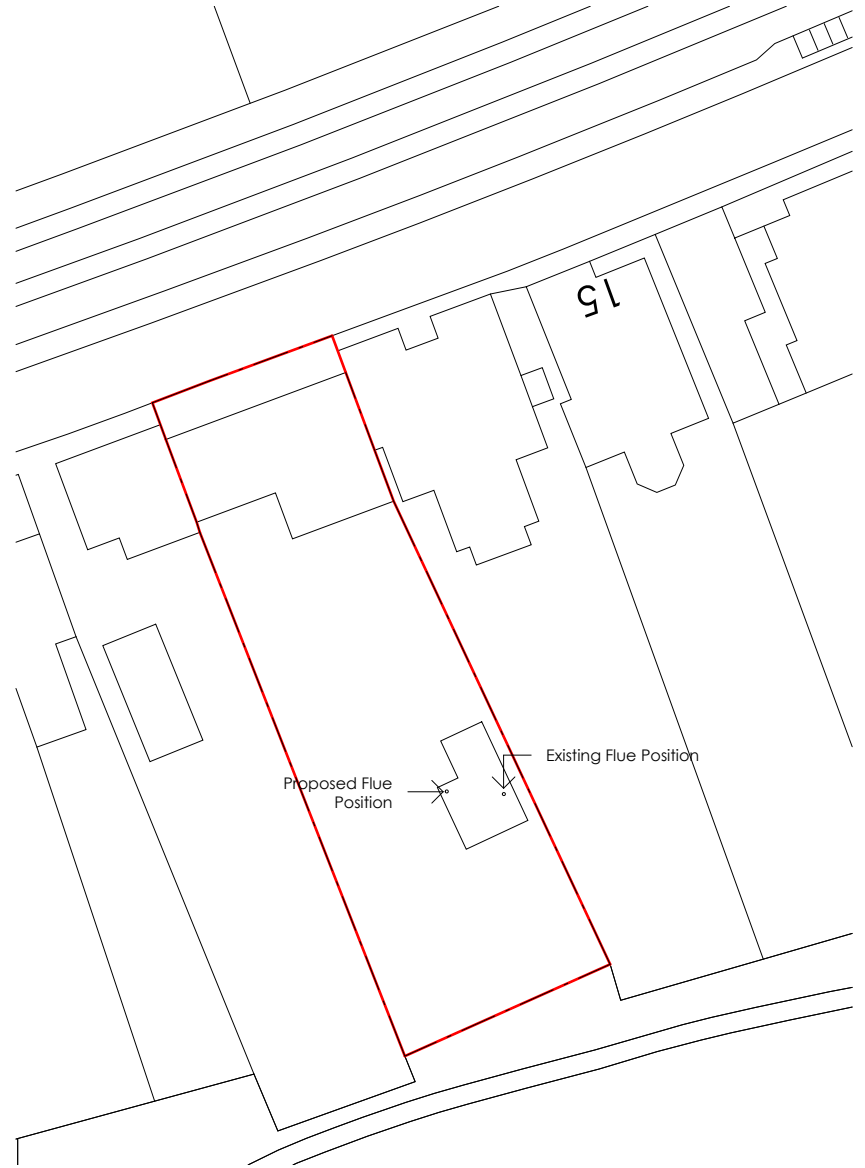
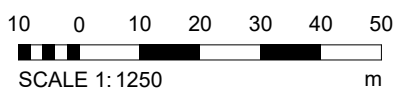
Granted Permission/Consent	<input type="checkbox"/>	Refused Permission/Consent	<input type="checkbox"/>	Withdrawn	<input type="checkbox"/>
----------------------------	--------------------------	----------------------------	--------------------------	-----------	--------------------------

Q.9 Were you the:- Applicant Agent Third Party objector who made a representation

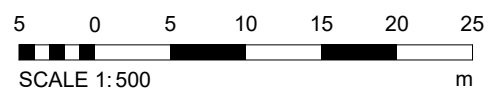
Please complete the form and return in the pre-paid envelope provided.
Thank you for taking the time to complete this form.



Location Plan
1 : 1250



Site Plan
1 : 500



REV	Description	Date
A	Planning App	25/07/22
B	Planning Amendments	27/03/23

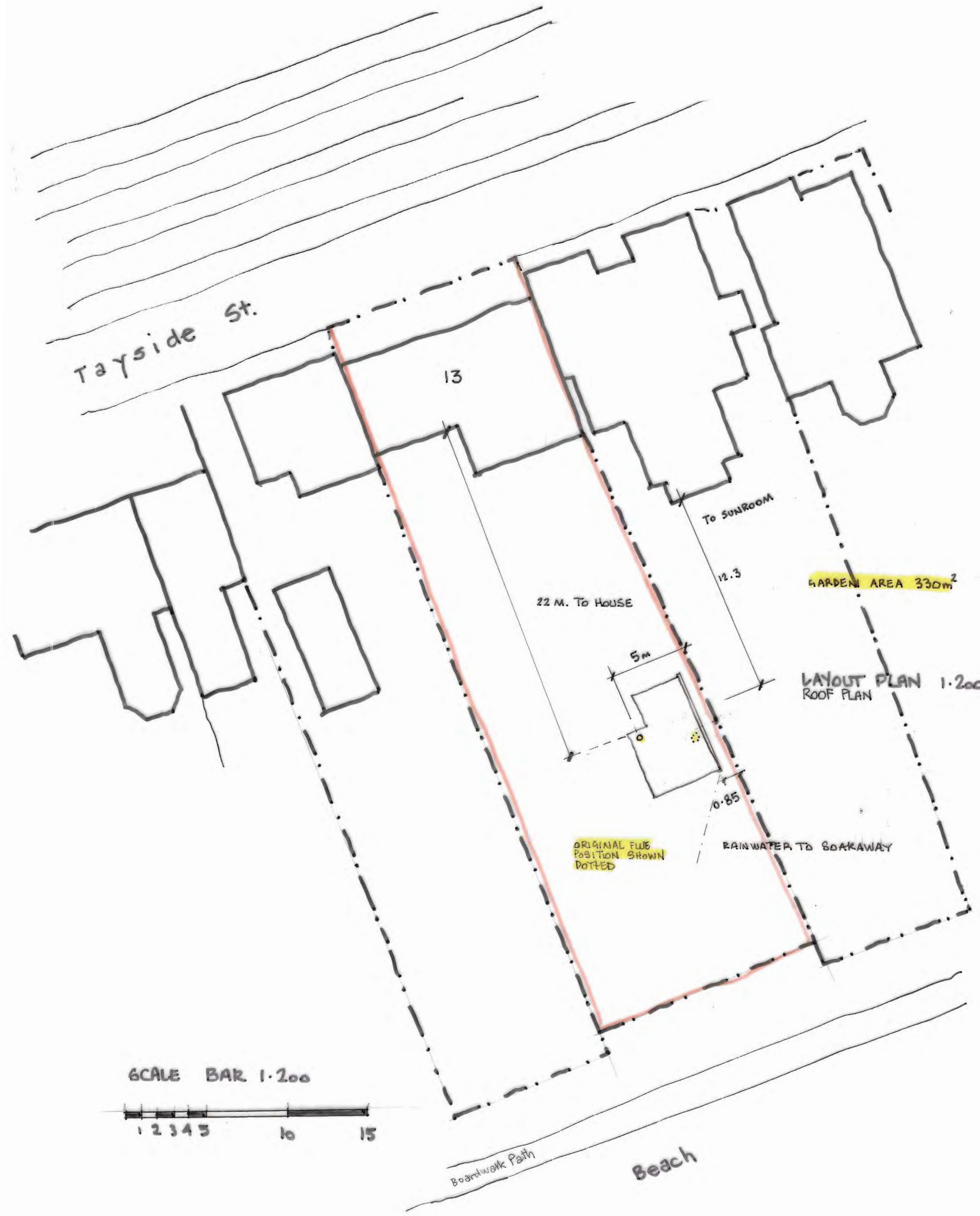
Client:
Mr and Mrs Roach

Project:
Retrospective Planning Application for Garden Room and Log Burning Stove and Deck
13 Toyside St., Carnoustie

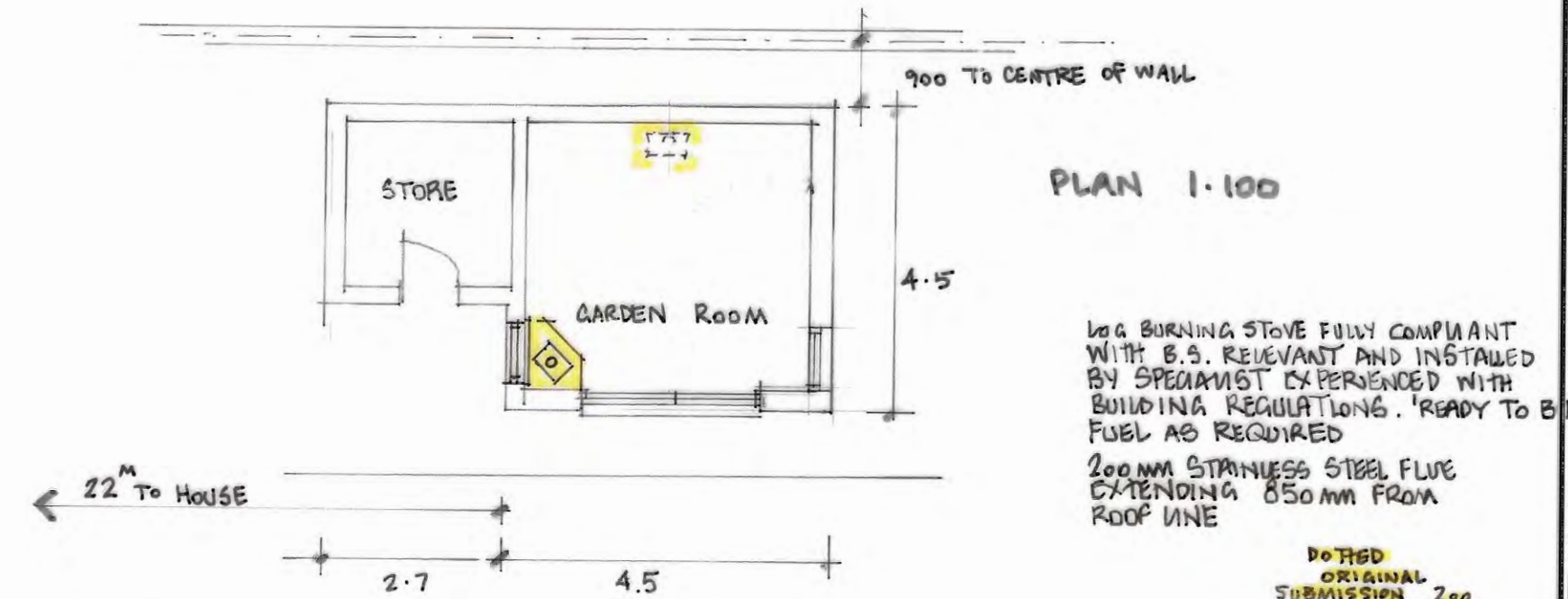
Sheet Name:
Location and Site Plans

Drawing Number:
2614_D_001 B

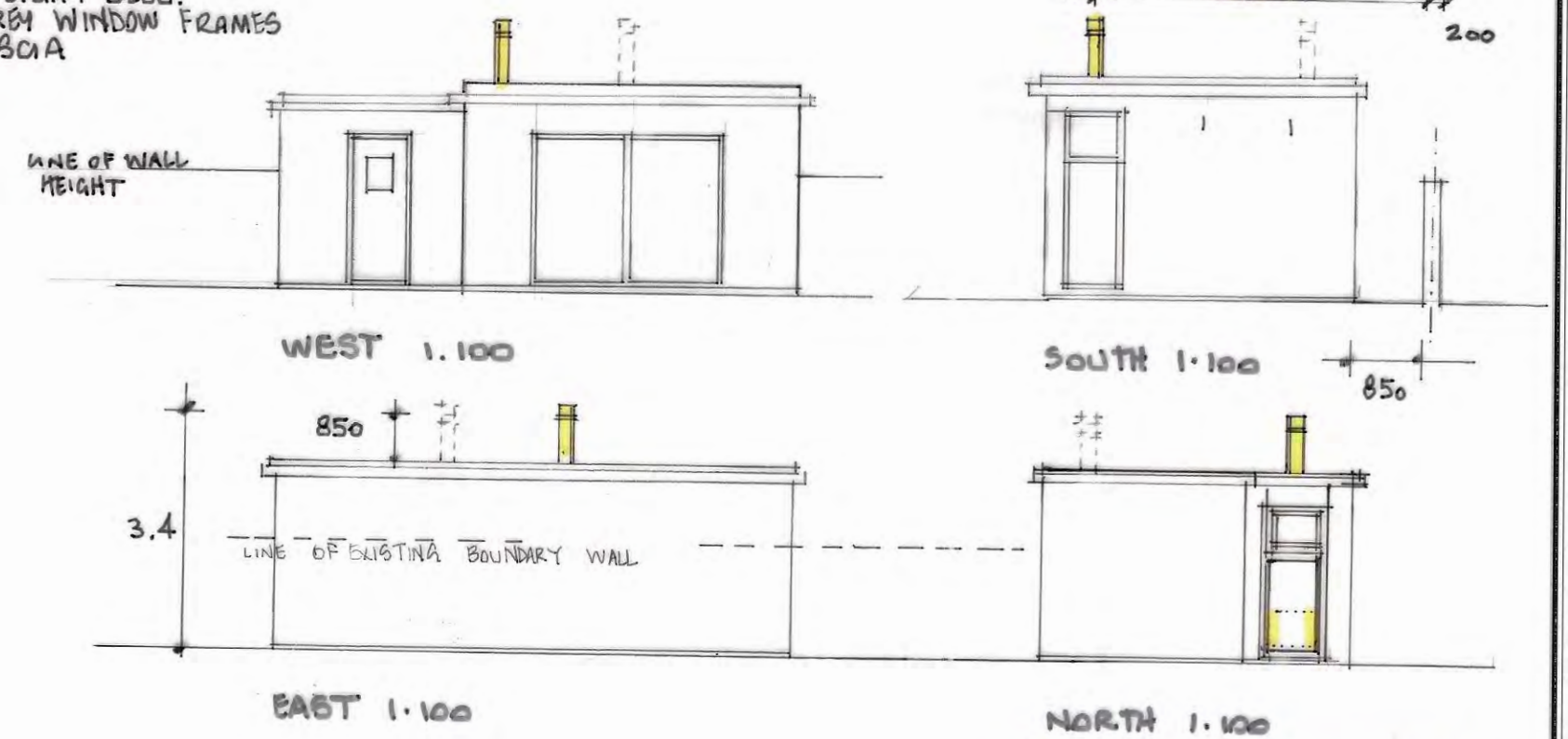
SCALE BAR 1:100



SCALE BAR 1:200



EXTERNAL MATERIALS VERTICAL 140X20MM LARCH STAINED LIGHT BLUE. DARK GREY WINDOW FRAMES AND FASCIA



REUSE EXISTING FLUE IN NEW POSITION 5 M. FROM NEIGHBOURS GARDEN

EXISTING WINDOW GLASS TO REMAIN BUT BE PROTECTED BY HEAT RESISTANT GLASS OR SIMILAR PROTECTION FROM HEAT.

RETROSPECTIVE PLANNING APPLICATION FOR GARDEN ROOM AND LOG BURNING STOVE AND DECK. MR and MRS ROACH 13 TAYSIDE ST. CARNOUSTVE

JOB N° 2614 DRAWING N° 02 A RESUBMISSION 15.3.23 March 2023

BRUNTON DESIGN CHARTERED ARCHITECTS



Site Inspection Report

BRUNTON DESIGN
CHARTERED ARCHITECTS

Project Name:

2614 - Retrospective Planning for Log Burning
Flue - Tayside St Roach

Client Name:

Mr & Mrs Roach

Description

Inspection

Prepared By

Rodger Brunton

Inspection Date & Time

18.07.2022

Inspection Number

001

Weather Conditions

Sunny very warm

Printed

19.07.2022 13:43

Findings

6 images / issues

Present During Inspection

R Brunton and Applicant

Comments

Stove not lit. Generally very warm

Issues Identified

To update the status of any of the issues identified in this report please click the link below, scan the QR code or visit : sitepal.io and enter reference number 588-871

[Click here to view these issues in the contractor portal](#)



2614 - Retrospective Planning for Log Burning Flue - Tayside St Roach

13 Tayside Street , Carnoustie

001 / 001



Comment
Front elevation (west) of garden room and deck
Compliant with permitted development guide of
Angus Council

Current Status
No issue

001 / 002



Comment
Overall garden room. Flue just visible in middle of
photograph at perimiter

Current Status
No issue

2614 - Retrospective Planning for Log Burning Flue - Tayside St Roach

13 Tayside Street , Carnoustie

001 / 003



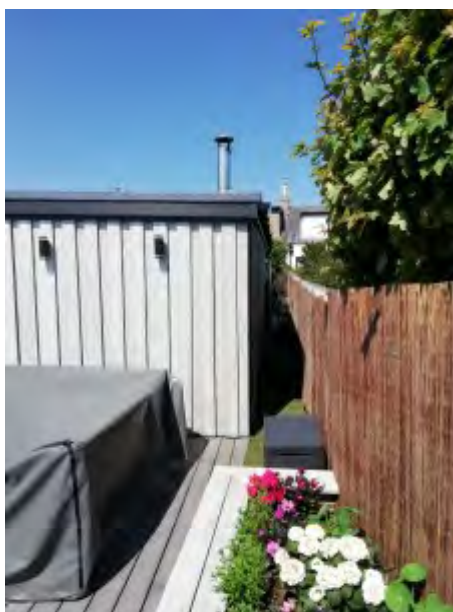
View of garden room (south) flue showing above soffit line by 750mm and is 4.2mm above decking level and 4.3mm above the ground level at the wall.

Comment

Current Status

No issue

001 / 004



Garden room 1m off boundary (entre of stone wall) Flue top 4.3 above the ground level at boundary wall

Comment

Current Status

No issue

2614 - Retrospective Planning for Log Burning Flue - Tayside St Roach
13 Tayside Street , Carnoustie

001 / 005



Comment

Flue top from west

Current Status

No issue

001 / 006



Comment

Flue to left of clothes pole just visible above roof line

Current Status

No issue

FURTHER LODGED REPRESENTATIONS

Jane Conley

From: Carol Ford <[REDACTED]>
Sent: 19 September 2023 14:35
To: Roselyn Brown
Subject: Re: Application for Review - Retrospective Log Burning Stove and Flue on Summerhouse, Carnoustie

Importance: High

Dear Roselyn,

LATEST PLANNING APPEAL, 13 TAYSIDE STREET, CARNOUSTIE, DD7 6AX

Angus Council officials have already recognised that no new planning construction can expect both a) a **low** chimney immediately adjacent to a neighbour's garden and b) the total destruction and pleasure of the amenity of that garden, by the emission of wood-burning smoke (see submitted photograph) not to be a matter of serious protest by neighbouring proprietors.

The thoughtless damage described above was previously acknowledged by Angus Council in the refusal to grant retrospective planning permission for its presence. We cannot believe that a further appeal - against both a destructive visual annoyance and atmospheric damage by smoke and fumes - can possibly overturn the Council's clearly described decision.

We trust that the application for review of the latest development takes the above into full consideration. If a visit to number 14 would be of assistance, you will be welcome to inspect the problems we face.

Yours sincerely,

Donald and Carol Ford



On 13 Sep 2023, at 11:47, Roselyn Brown <BrownR@angus.gov.uk> wrote:

Dear Sir/Madam

**Town and Country Planning (Schemes of Delegation and Local Review Procedure)
(Scotland) Regulations 2013
Application for Review – Refusal of Planning Permission for Retrospective Log Burning
Stove and Flue on Summerhouse, Carnoustie – Brunton Design Ltd
Application No 23/001711/FULL - DMRC-10-23**

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

Roselyn
Roselyn Brown | Executive Support Officer (Members Services) and Committee
Assistant | Angus Council | 01307 491994

<Refusal Decision Notice.pdf>

Jane Conley

From: Su Nicoll [REDACTED]
Sent: 13 September 2023 13:41
To: Roselyn Brown
Subject: Re: Application for Review - Retrospective Log Burning Stove and Flue on Summerhouse, Carnoustie
Attachments: Refusal Decision Notice.pdf
Importance: High

Good afternoon

I would like to confirm that we have no issue at all with the use of a log burning stove in the summerhouse on Tayside Street.

There are other stoves and fires being used in homes along the street and it is difficult to understand why this one is any different. It is likely that it would be used considerably less than the ones that are already in use elsewhere in the street due to the purpose of the summerhouse. The ruling against its installation appears to be somewhat inconsistent, given that similar sources of heat are being used elsewhere without issue. I hope this clarifies our position.

Kind regards,
Su Nicoll

Su Nicoll
17 Tayside Street
Carnoustie
DD7 6AX
su@zoo-design.co.uk
01241 410 202 / [REDACTED]

Website: <http://zoo-design.co.uk/>
Etsy: <https://www.etsy.com/uk/shop/ZooDesignStore>
Behance: <https://www.behance.net/sunicoll>

On 13 Sep 2023, at 11:47, Roselyn Brown <BrownR@angus.gov.uk> wrote:

**APPLICANT RESPONSE TO
FURTHER LODGED REPRESENTATIONS**

Jane Conley

From: admin <admin@bruntondesign.com>
Sent: 04 October 2023 14:18
To: Roselyn Brown
Cc: Rodger Brunton
Subject: Application for Review - 13 Tayside Street, Carnoustie

Roselyn,

Application for review: Refusal of retrospective planning permission for log burning stove and flue at 13 Tayside Street, Carnoustie
Application 23/00171/FULL - DMRC-10-23

Thank you for the information contained in the letter/email from Mr & Mrs Ford attaching a photograph.

I would be grateful if you can confirm after consultation with them the date and time the photograph was taken as that was not on the letter accompanying it.

It is also worth pointing out the photograph shows the existing flue position and does not represent where we actually applied to have the flue and appliance moved to which is several feet to the photograph's right.

I agree with Mr & Mrs Ford that a site visit by the Review Committee would be invaluable to establish context and the actual scale of the "perceived" problem.

Regards



Rodger Brunton BSc BArch (Hons) RIBA FRIAS
ARCHITECT
for BRUNTON DESIGN | CHARTERED ARCHITECTS

Phone number: 01241 858153
Email: rodger@bruntondesign.com

Website: bruntondesign.com
Address: Design Studio, 95 Dundee Street, Carnoustie, DD7 7EW