

Angus Council



ADVICE NOTE 25

**AGRICULTURAL
LAND TO GARDEN
GROUND**

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INTRODUCTION

A number of rural householders in Angus have sought to extend their gardens into adjacent farmland. Farmers have often been willing to accommodate these requests and accept the small additions to their income that arises from the sale. However, the planning requirements and procedures have not always been adhered to and this can cause subsequent problems.

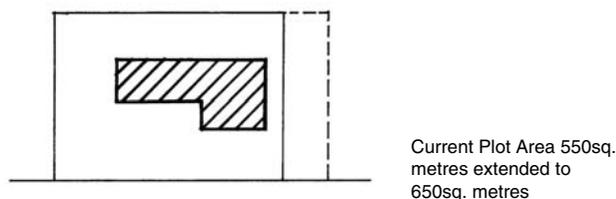
Accordingly, and in order to achieve a consistency of decision making by the Council as Planning Authority while at the same time providing guidance to prospective customers, this Advice Note has been prepared to illustrate Council policy on this subject.

While there are some disadvantages in permitting areas of farmland to be absorbed into residential garden ground - the incremental loss of farmland, general urbanisation of the countryside, creation of additional house plots where a new house would not normally be allowed, etc. - there are a number of grounds that might be regarded as justifying the annexation of small areas of farmland into residential curtilages. The Advice Note identifies these circumstances where planning permission is likely or unlikely to be forthcoming.

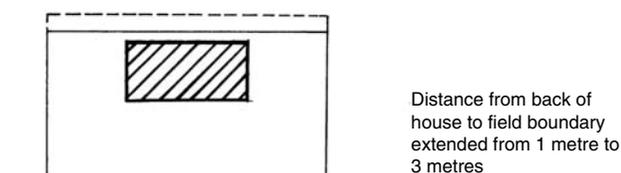
ACCEPTABLE SITUATIONS

There are a number of circumstances where a change of use from agriculture to residential garden ground would seem reasonable and therefore acceptable. These include where:-

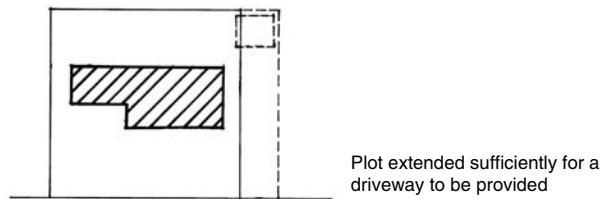
- (a) the plot area is small (below the current policy minimum for a new rural house plot, 800 square metres in an RSU1 or 600 square metres in an RSU2) resulting in farming activities taking place very close to the house;



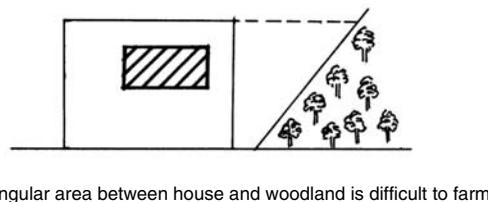
- (b) an elevation of the existing house containing windows or doors is very close to the boundary and, therefore, close to farming activities to the detriment of residential amenity;



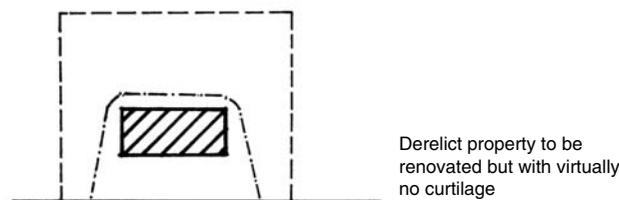
- (c) small areas of ground are required to achieve a reasonable residential objective, eg an extension or driveway in order to provide a rear garage, etc;



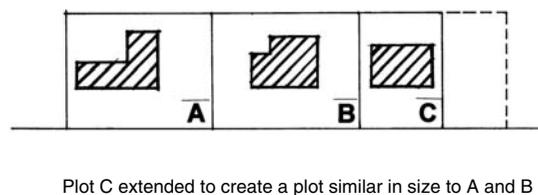
- (d) a difficult or awkward area of ground for farming (e.g. ploughing) purposes is involved;



- (e) additional ground is required to provide a viable curtilage for a house renovation or rebuild;



- (f) a house plot is smaller than that generally to be found in the immediate vicinity.



It is appropriate, however, to impose constraints on the above if a virtual free for all is not to arise.

There should, for instance, be some protection accorded to prime quality land and therefore, where prime quality land is involved, change of use will be permitted where required for reasons (a) to (e) but not (f) but the land-take should be the minimum required to achieve the objective. (f) is likely to be the most demanding on land-take and is also probably the least justifiable reason for allowing loss of prime quality land.

Where non-prime quality land is involved, change of use to residential curtilage for any of the reasons listed will be allowed under two provisos:-

- (a) that the maximum plot size allowed for a new house in the countryside is not exceeded - 2000 square metres in an RSU1 area or 4000 square metres in an RSU2; or
- (b) where there is a consistency of plot size in the immediate vicinity, it will be acceptable to extend the existing house plot to a compatible size;

WHICHEVER IS THE LESSER OF (a) OR (b).

If in granting consent for an extended curtilage into non-prime land, the minimum plot size for a new house in the countryside (800 square metres in an RSU1 or 600 square metres in an RSU2) is doubled, a Section 75 Agreement will be required in order to prevent its future sub-division into two house plots.

No consent will be granted where if in doing so a gap site eligible for a new house in terms of the Council's policies would be created. This "rule" will apply to all circumstances whether prime or non-prime land is involved.

PLANNING CONDITIONS

In granting any planning consent for change of use from agriculture to residential curtilage it is probable that, depending upon the circumstances, a number of conditions or restrictions could be imposed. These may include:-

- restrictions on the type of structures that can be erected on the ground;
- landscaping/screening requirements;
- boundary treatment of the new boundary which in certain circumstances may require dry-stone dyking.

TERMINOLOGY

RSU - stands for Rural Settlement Unit as identified in the Angus Local Plan. An RSU1 is a generally non-remote area with stable or increasing populations. An RSU2 is probably a remote rural area for which a more relaxed planning regime towards new housing is practised in order to stem rural depopulation and/or support existing services. RSU2's include the Glens, Ruthven, Airlie, Aberlemno, Careston, Stracathro, Craigo, Dun, Pitkenney, Carmyllie and Eassie.

You should check with the Planning & Transport Department should you require accurate information as to which RSU your property falls.

Prime Quality Land - means Classes 1, 2 or 3.1 as defined in the Macauley Land Capability for Agriculture classifications.

Section 75 Agreement - a legal agreement entered into by the applicant and Planning Authority to achieve an objective that cannot be achieved by means of a planning condition. The Agreement is an encumbrance upon the property and is recorded on the title deeds at the Register of Sasines.

Gap Site - an undeveloped site lying between the curtilages of two domestic scale buildings or between the curtilage of one such building and a public road. In an RSU1 the road frontage of the site must measure between 15 and 50 metres. In an RSU2 the maximum is increased to 75 metres.