

Please note that this meeting will be held remotely

Monday, 24th April, 2023 - 2.00 p.m.

AGENDA

Page Nos.

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST** – In terms of Section 5 of the Code of Conduct, members of the Committee are asked to declare any interest in particular items on the agenda and the nature of the interest(s) at this stage.
3. **MINUTE** – Minute of meeting of the Fife Planning Review Body of 13th February, 2023. 5 - 7
4. **APPLICATION FOR REVIEW - 14 MORTIMER COURT, DALGETY BAY (APPLICATION NO. 21/02523/FULL)** – Alterations to existing rear extension including installation of roof lantern.
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 3. Representations 31 – 44
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 5. Response to further representations 58 – 60
 6. Comments on National Planning Framework 4 (NPF4) 61 - 65
5. **APPLICATION FOR REVIEW - 41 LEARMONTH PLACE, ST. ANDREWS (APPLICATION NO. 21/02318/FULL)** – Installation of air source heat pump (amendment to 19/02448/FULL)
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6. **APPLICATION FOR REVIEW - 25 ELM GROVE, DUNFERMLINE (APPLICATION NO. 22/02622/FULL)** – Two storey extension to side of dwellinghouse
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 4. Further representations 221 – 224
 5. Response to further representations 225 – 228
 6. Comments on National Planning Framework 4 (NPF4) 229 - 230

Plans and papers relating to the applications and the review can be viewed online at www.fife.gov.uk/committees

Lindsay Thomson
Head of Legal and Democratic Services
Finance and Corporate Services
Fife House
North Street
Glenrothes
Fife, KY7 5LT

17th April, 2023.

If telephoning, please ask for:
Michelle McDermott, Committee Officer, Fife House, North Street, Glenrothes
Telephone: 03451 555555, ext. 442238; email: Michelle.McDermott@fife.gov.uk

Agendas and papers for all Committee meetings can be accessed on www.fife.gov.uk/committees

Local Review meeting

Guidance Notes on Procedure

1. Introduction by Convener

- Convener introduces elected members and advisers; both there to advise the Review Body and not argue the officer's case; planning adviser in particular independent of the planning officer who made the decision.
- Convener advises members that photos/powerpoint are available
- Convener clarifies procedure for meeting and asks members if they have any points requiring clarification

2. Minutes of previous meeting

Review Body requested to approve minute of last meeting

3. Outline of first item - Convener

4. Powerpoint presentation of photos/images of site

Convener advises other documents, including Strategic Development/Local Plan and emerging plan(s) are there for Members to inspect if necessary, and asks members to ask Planning Adviser points of clarification on the details of the presentation.

5. Procedural agreement.

Members discuss application and decide whether –

- decision can be reached today
- if there is any new information, whether this is admissible or not in terms of the legislation
- more information required, and if so, if
- written submissions required
- site visit should be arranged (if not already happened)
- Hearing held

6. Assessment of case. Convener leads discussion through the key factors (assuming we can proceed)

Members should recall that planning decisions should be taken in accordance with the Development Plan, unless material considerations indicate otherwise. Accordingly, it is important the Members debate each point fully and explain whether they are following policy, or, if not, what material considerations lead them to depart from it. If they are taking a different view of policy from the officer who made the original decision they should make this clear.

a) Convener asks the LRB to consider

- Report of Handling and
- the applicant's Review papers

to establish the key issues pertinent to this case

- b) Detailed discussion then takes place on the key issues with specific regard to
- Strategic Development Plan
 - Local Plan
 - Emerging Plan(s)
 - Other Guidance
 - National Guidance
 - Objections

Legal/Planning Advisers respond to any questions or points of clarification from elected members

- c) Convener confirms the decision made by the LRB. At this stage if a conditional approval is chosen then additional discussion may be necessary regarding appropriate conditions

7. Summing Up by the Convener or the Legal Adviser identifying again the key decision reached by the LRB

8. Next stages Convener confirms the next stages for the benefit of the audience:

- Draft decision notice
- Agreed by Convener
- Issued to applicant and interested parties (posted on Idox)
- Approximate timescale for issuing decision. (21 days)

9. Closure of meeting or on to next item

Version 5
31.10.2017

THE FIFE COUNCIL - FIFE PLANNING REVIEW BODY – REMOTE MEETING

13th February, 2023.

2.00 p.m. – 4.00 p.m.

PRESENT: Councillors David Barratt (Convener), Ken Caldwell, Fiona Corps, Jane Ann Liston and Lynn Mowatt.

ATTENDING: Mary McLean, Team Manager (Legal Services), Legal and Democratic Services; Steve Iannarelli, Strategic Development Manager, Katherine Pollock, Lead Professional and Bryan Reid, Lead Professional, Planning Service.

19. DECLARATIONS OF INTEREST

Councillor Jane Ann Liston declared an interest at para. 20 - Application for Review - The Thistles, 9 Aikman Place, St. Andrews (Application No. 22/01569/FULL) - as the application was within her Ward.

20. MINUTE

The minute of the Fife Planning Review Body of 12th December, 2022 was submitted.

Decision

The Review Body approved the minute.

21. NATIONAL PLANNING FRAMEWORK 4 (NPF4) – UPDATE -

Steve Iannarelli, Strategic Development Manager provided an update on the National Planning Framework 4 (NPF4) advising that the Framework was now in force and therefore relevant for consideration by the Review Body in their considerations of the Applications for Review. All parties had been afforded the opportunity to submit comments on NPF4 in respect of the Applications for Review and the position statements prepared by the Planning Advisor for the Review Body that provided a concise review of the proposals in each Application Review against the relevant NPF4 objectives and policy requirements

Having declared an interest in the following item, Councillor Jane Ann Liston left the meeting at this stage.

22. APPLICATION FOR REVIEW - THE THISTLES, 9 AIKMAN PLACE, ST. ANDREWS (APPLICATION NO. 22/01569/FULL)

The Review Body considered the Application for Review submitted by MA Design, on behalf of Mr. Jim Sinclair, in respect of the decision to refuse planning permission for the installation of a dormer extension to the front of the dwellinghouse and installation of a balcony to the rear of the dwellinghouse (Application No. 22/01569/FULL).

Decision/

Decision

The Review Body agreed:-

- (1) sufficient information was before them to proceed to decide the matter; and
- (2) the application be refused (varying the appointed officer's determination) to accommodate reference to NPF4 and that the content of the Decision Notice be delegated to the Head of Legal and Democratic Services, in consultation with the Convener.

Councillor Jane Ann Liston rejoined the meeting following consideration of the above item.

23. APPLICATION FOR REVIEW - LAND NORTH OF THE STEADING, LUNDIN ROAD, CROSSFORD, DUNFERMLINE (APPLICATION NO. 21/01846/FULL)

The Review Body considered the Application for Review submitted by Architeco Ltd., on behalf of Mr. Dan Lyth, in respect of the decision to refuse planning permission for the erection of a dwellinghouse and carport with associated access and landscaping works (Application No. 21/01846/FULL).

Decision

The Review Body agreed:-

- (1) sufficient information was before them to proceed to decide the matter; and
- (2) the application be refused (varying the appointed officer's determination) to include reference to NPF4 and that the content of the Decision Notice be delegated to the Head of Legal and Democratic Services, in consultation with the Convener.

24. APPLICATION FOR REVIEW - 24 MAIN STREET, GUARDBRIDGE, ST. ANDREWS (APPLICATION NO. 22/01765/FULL)

The Review Body considered the Application for Review submitted by Dr. Senga Oxenham in respect of the decision to refuse planning permission for the formation of a driveway opening onto an A classified road (Application No. 22/01765/FULL).

Motion

Councillor David Barratt, seconded by Councillor Jane Ann Liston, moved to approve the application subject to a condition to secure the relocation/removal of the lamppost before the development was implemented.

Amendment

Councillor Ken Caldwell, seconded by Councillor Lynn Mowatt, moved that the officer recommendations be approved.

Vote/

Vote

Amendment – 2
Motion – 3

The motion was accordingly carried.

Decision

The Review Body agreed:-

- (1) sufficient information was before them to proceed to decide the matter; and
 - (2) the application be approved subject to a condition to relocate/remove the lamppost (reversing the appointed officer's determination) and that the content of the Decision Notice be delegated to the Head of Legal and Democratic Services, in consultation with the Convener.
-

Agenda Item 4(1)

**14 Mortimer Court, Dalgety Bay, KY11 9UQ
Application No. 21/02523/FULL**

Notice of Review



Fife House North Street Glenrothes KY7 5LT Email: development.central@fife.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 100437614-002

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	1st architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Adrian	Building Name:	
Last Name: *	Neville	Building Number:	12
Telephone Number: *	01383417509	Address 1 (Street): *	Post Office Lane
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	North Queensferry
Fax Number:		Country: *	Fife
		Postcode: *	KY11 1JP
Email Address: *	adrian@1st-architects.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="Catherine"/>	Building Number:	<input type="text" value="14"/>
Last Name: *	<input type="text" value="Chorley"/>	Address 1 (Street): *	<input type="text" value="14 Mortimer Court"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text" value="Mortimer Court"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dalgety Bay"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="KY11 9UQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="Fife Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="14 MORTIMER COURT"/>
Address 2:	<input type="text" value="DALGETY BAY"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DUNFERMLINE"/>
Post Code:	<input type="text" value="KY11 9UQ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="682938"/>	Easting	<input type="text" value="315732"/>
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Description of Proposal

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

Disabled conversion involving 1.raising of floor and roof level to eliminate steps. 2.- deletion of window and replacement with roof lantern.

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.

see supporting document attachment ("application for review statement")

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

Yes No

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

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

- application for review statement -A101 elevations as existing -A103 elevations as proposed -A 106 side elevations existing and proposed

Application Details

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

21/02523/FULL

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

10/08/2021

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

20/12/2022

Review Procedure

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

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

Yes No

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mr Adrian Neville

Declaration Date: 09/02/2023

Application for review of refusal on planning application 21/02523/FULL

Disabled conversion at 14 Mortimer Court, Dalgety Bay involving the raising of the floor level (in one room) and roof level to remove internal steps.

Background

[REDACTED]
[REDACTED].
Consequently, she downsized to a bungalow in nearby Mortimer Court. Building works were arranged to create an accessible bathroom. As these were internal alterations no planning permission was required. The property had a dining room extension built some 25 years ago, though this was accessed down steps. The applicant initially thought these might be manageable but on occupation it was quickly realised that they weren't (the steps were very steep and not compliant with building regulations). The builder who was already working on [REDACTED].

Drawings were prepared for the alteration and an application for a certificate of lawfulness was submitted to Fife council on 29th June 2021. A response was received from planning on 26/7/21 indicating that although no planning was required for buildings of 4m or less in height, in this case a full application would be required as the glass rooflight projected slightly above the 4m and there was a raised platform above 0.5 metres. The raised platform was deleted and a full application was submitted on 10/8/21 and registered on 23/8/21. As works had already commenced this was a retrospective application.

Two letters of objection were submitted by the immediate neighbours. The first related to overshadowing but this argument was not accepted by the reporting planning officer.

The second objection related to its design and mass. These were accepted by the reporting officer. The officer stated in the case report:-

"The increase in eaves height to form a flat roof has created a 4m high mass of blockwork and rendered walls which are at odds with the proportions and design of the existing dwelling house with no cohesion between roof spaces of the original dwelling house, the existing garage and the now altered rear extension."

The refusal appears to rest on this point alone. The applicant submitted the following relevant points to the officer in December 2021, though they were not responded to other than by the refusal a year later.

- From the front elevation facing the street the flat roof tucks neatly under the existing roof so it is actually lower than the pitched roof it replaces. Below is a before and after photograph.



Before



After

- Even looking obliquely from the front street the new roofline is unobtrusive. Here's a photograph from this angle. Whilst it can be also be seen looking across two back gardens from the road around the corner this is not the principal elevation and is across back gardens.

The dominant feature is actually the (objecting) neighbour's flat roofed garage which, as seen here, sticks out in front of the applicant's house for its full length, rather than the applicant's flat roofed dining room which tucks neatly behind her flat roofed garage and is barely visible as you approach the house.



The before and after drawings also show how minimal the change actually is.



- The situation for the neighbours has been improved as an existing window looking directly into the neighbour's house has been removed and replaced with the rooflight. **As per the 26/7/21 email from planning the alterations would be permitted development except for the fact that this glass rooflight projects slightly above the 4m height.**
- The original design aesthetic of the estate is to have pitched roof houses with flat roofed ancillary buildings. In changing to a flat roof (for disabled access) the applicant is following the original design aesthetic of the estate. This is particularly relevant as the altered roof is immediately behind the flat roofed garage.

ELEVATIONS AS EXISTING

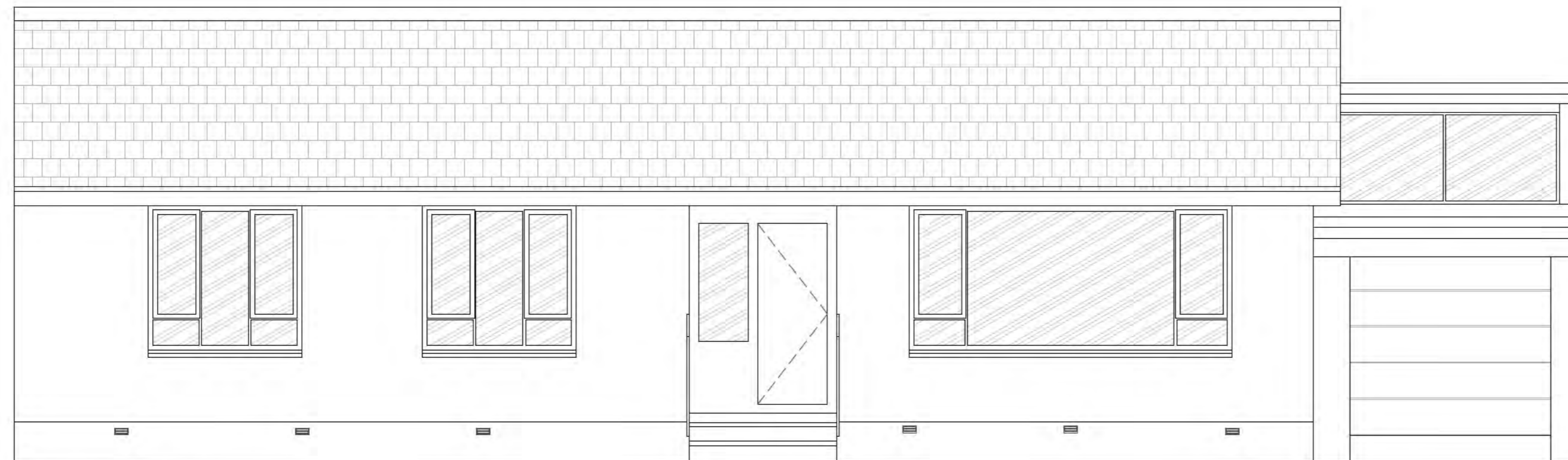
NOTE: All existing dimensions must be checked on site by the contractor prior to work commencing. Any discrepancies must be reported prior to works starting.

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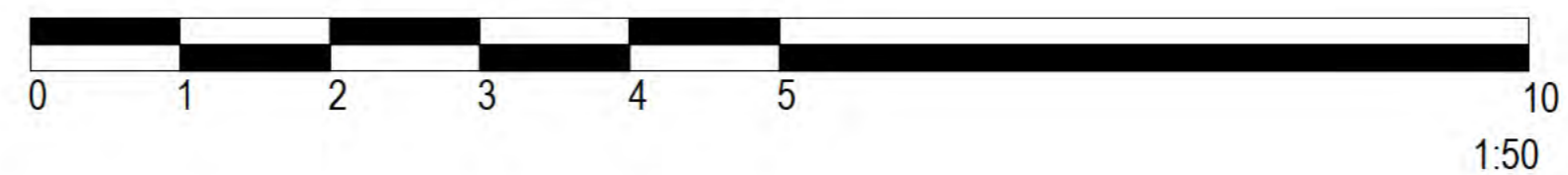
rear elevation

1:50



front elevation

1:50

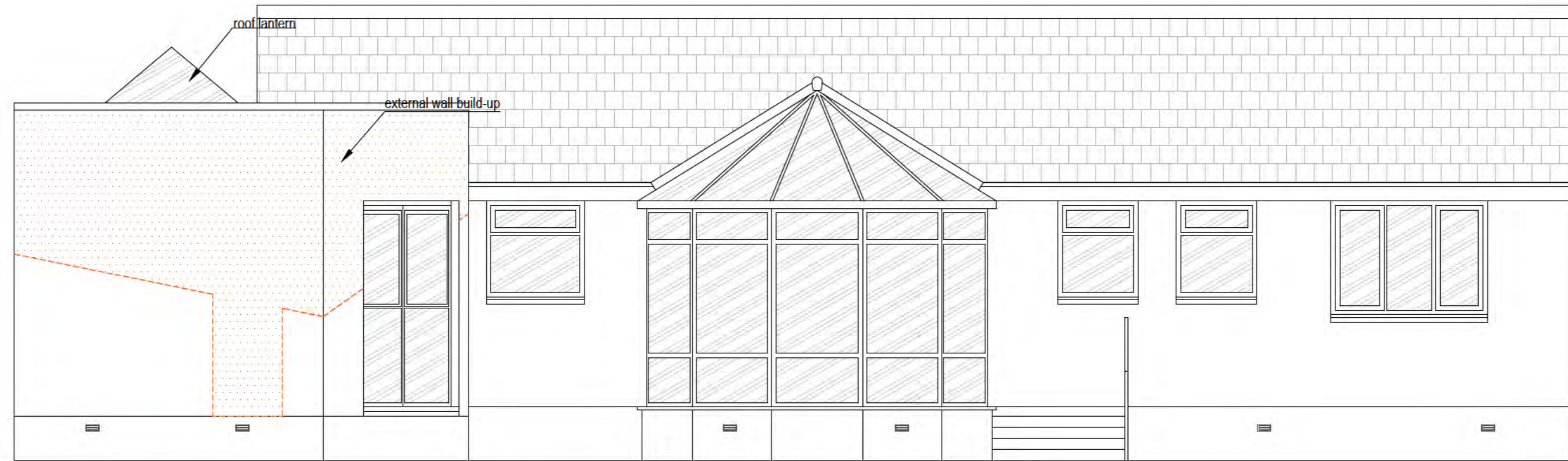


Stage:		
PLANNING		
Project:		
14 MORTIMER COURT		
Client:		
CATH CHORLEY		
Project Address:		
14 MORTIMER COURT DALGETY BAY, KY11 9UQ		
Title:		
SURVEY ELEVATIONS AS EXISTING		
Drawn by:	Checked by:	Project no:
KK	AN	
Date:		2101
	29/06/2021	
Scale:	Drawing no:	Rev:
1:50 (A2)	A101	A

ELEVATIONS AS PROPOSED

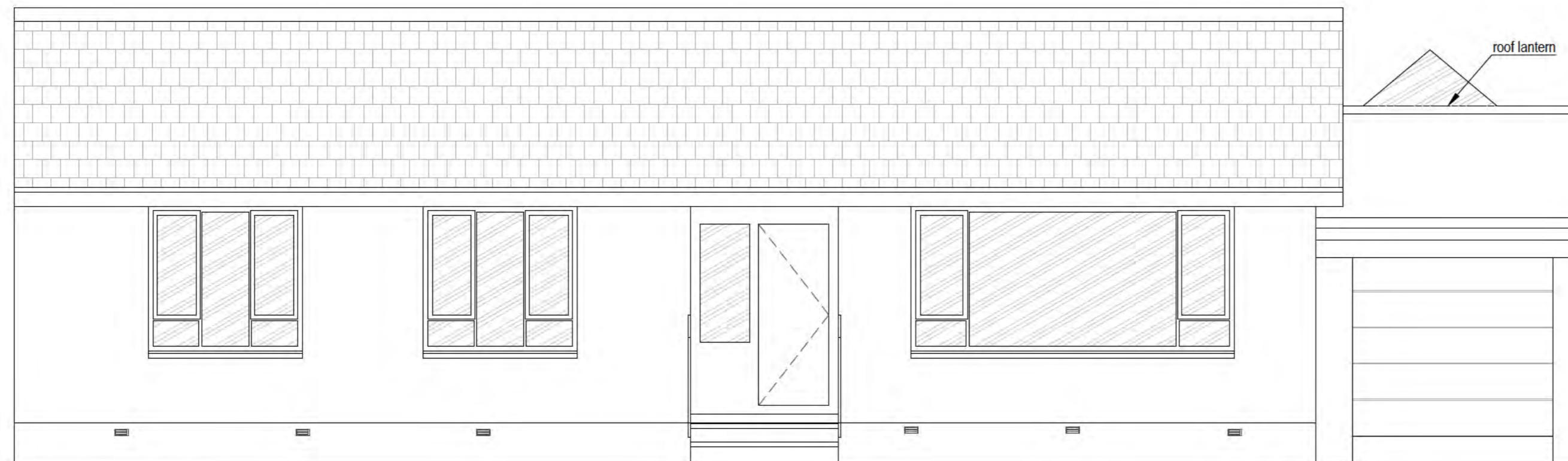
NOTE: All existing dimensions must be checked on site by the contractor prior to work commencing. Any discrepancies must be reported prior to works starting.

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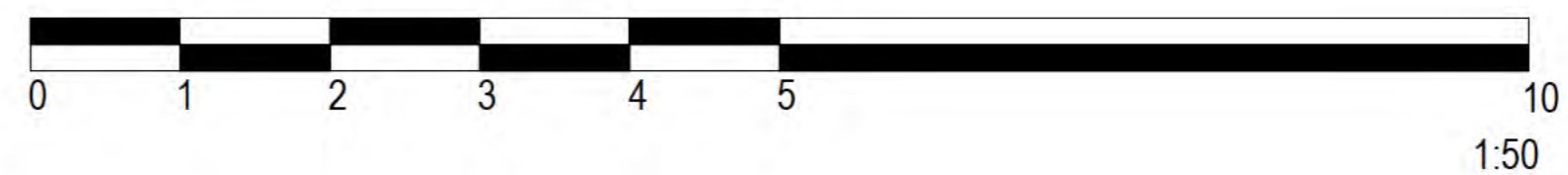
rear elevation

1:50



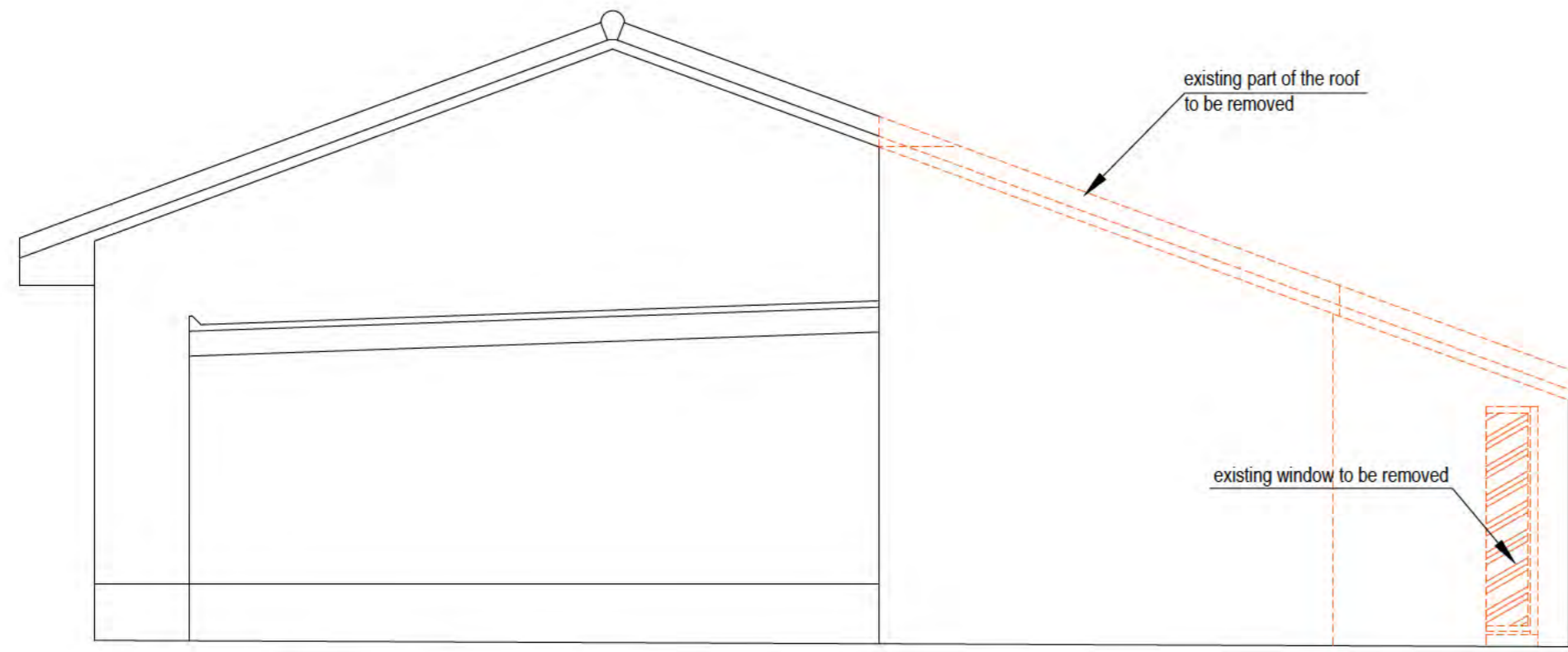
front elevation

1:50



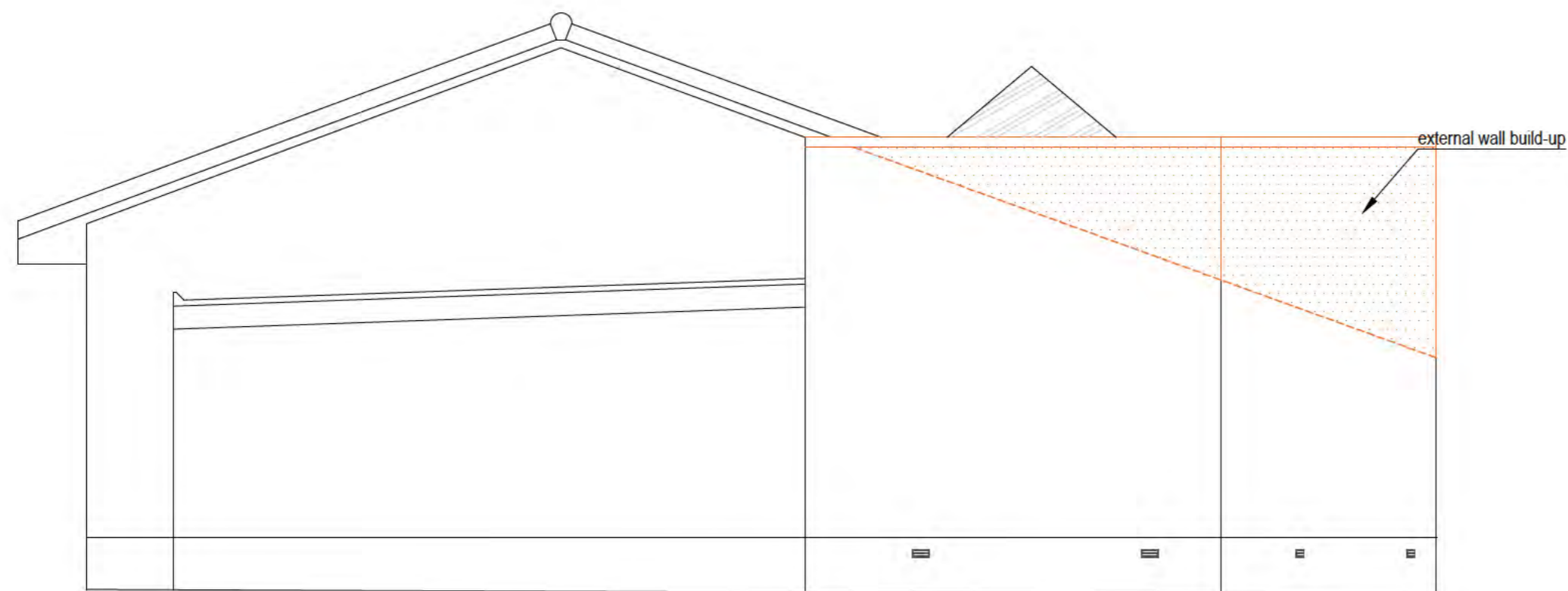
Stage:		
PLANNING		
Project:		
14 MORTIMER COURT		
Client:		
CATH CHORLEY		
Project Address:		
14 MORTIMER COURT DALGETY BAY, KY11 9UQ		
Title:		
ELEVATIONS AS PROPOSED		
Drawn by:	Checked by:	Project no:
KK	AN	
Date:		2101
29/06/2021		
Scale:	Drawing no:	Rev:
1:50 (A2)	A103	A

ELEVATIONS AS EXISTING/AS PROPOSED



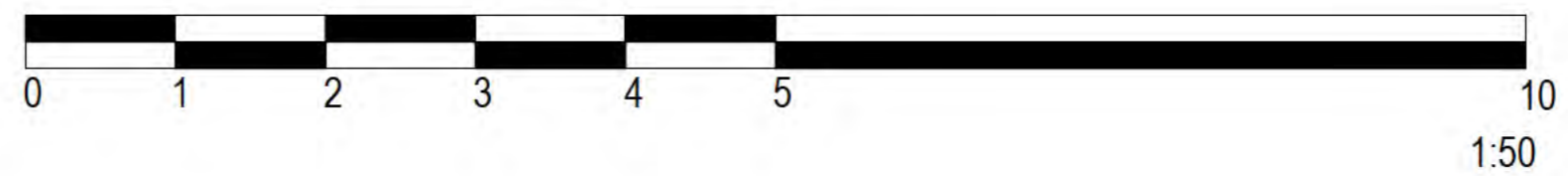
side elevation as existing

1:50



side elevation as proposed

1:50



NOTE: All existing dimensions must be checked on site by the contractor prior to work commencing. Any discrepancies must be reported prior to works starting.

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Stage:		
PLANNING		
Project:		
14 MORTIMER COURT		
Client:		
CATH CHORLEY		
Project Address:		
14 MORTIMER COURT DALGETY BAY, KY11 9UQ		
Title:		
SIDE ELEVATIONS AS EXISTING /AS PROPOSED		
Drawn by:	Checked by:	Project no:
KK	AN	
Date:		2101
23/08/2021		
Scale:	Drawing no:	Rev:
1:50 (A2)	A106	A

Proposal Details

Proposal Name	100437614
Proposal Description	accessibility adaptations to create level floor and eliminate steps
Address	14 MORTIMER COURT, DALGETY BAY, DUNFERMLINE, KY11 9UQ
Local Authority	Fife Council
Application Online Reference	100437614-002

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
application for review statement	Attached	A4
A103 elevations as proposed	Attached	A2
elevations as existing	Attached	A2
existing and proposed side elevations	Attached	A2
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-002.xml	Attached	A0

Agenda Item 4(2)

**14 Mortimer Court, Dalgety Bay, KY11 9UQ
Application No. 21/02523/FULL**

Planning Decision Notice

Report of Handling

1st Architects
Adrian Neville
12 Post Office Lane
North Queensferry
Fife
KY11 1JP

Planning Services

Gary Horne

development.central@fife.gov.uk

Your Ref:

Our Ref: 21/02523/FULL

Date 2nd December 2022

Dear Sir/Madam

Application No: 21/02523/FULL
Proposal: Alterations to existing rear extension including installation of roof lantern
Address: 14 Mortimer Court Dalgety Bay Dunfermline Fife KY11 9UQ

Please find enclosed a copy of Fife Council's decision notice indicating refusal of your application. Reasons for this decision are given, and the accompanying notes explain how to begin the appeal or local review procedure should you wish to follow that course.

Should you require clarification of any matters in connection with this decision please get in touch with me.

Yours faithfully,

Gary Horne, Planning Assistant, Development Management

Enc



DECISION NOTICE FULL PLANNING PERMISSION

Fife Council, in exercise of its powers under the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 **REFUSES PLANNING PERMISSION** for the particulars specified below

Application No: 21/02523/FULL
Proposal: Alterations to existing rear extension including installation of roof lantern
Address: 14 Mortimer Court Dalgety Bay Dunfermline Fife KY11 9UQ

The plans and any other submissions which form part of this Decision notice are as shown as 'Refused' for application reference 21/02523/FULL on Fife Council's Planning Applications Online

REFUSE FOR THE FOLLOWING REASON(S):

1. In the interests of safeguarding visual amenity; the proposed alterations to the rear extension by virtue of the resultant scale, mass and design would dominate and detract from the appearance of the dwellinghouse and surrounding residential environment. The proposal is therefore contrary to Policies 1 and 10 of the FIFEplan (2017) and Fife Council's Planning Customer Guidelines on Home Extensions (including garages and conservatories) (2016).

Dated: 2nd December 2022

Derek Simpson

For Head of Planning Services

Decision Notice (Page 1 of 2) Fife Council

PLANS

The plan(s) and other submissions which form part of this decision are: -

Reference	Plan Description
01	Location Plan
02	Floor Plan Existing
03A	Existing Elevations
04	Floor Plan Proposed
05A	Proposed Elevations
06A	Proposed Elevations
07	Photographs

Dated:2nd December 2022

Derek Simpson

For Head of Planning Services

Decision Notice (Page 2 of 2) Fife Council

IMPORTANT NOTES ABOUT THIS DECISION

LOCAL REVIEW

If you are not satisfied with this decision by the Council you may request a review of the decision by the Council's Local Review Body. The local review should be made in accordance with section 43A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 by notice sent within three months of the date specified on this notice. Please note that this date cannot be extended. The appropriate forms can be found following the links at www.fife.gov.uk/planning. Completed forms should be sent to:

**Fife Council, Committee Services, Corporate Services Directorate
Fife House
North Street
Glenrothes, Fife
KY7 5LT**

or emailed to local.review@fife.gov.uk

LAND NOT CAPABLE OF BENEFICIAL USE

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Minister, 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, he/she may serve on the Planning Authority a purchase notice requiring the purchase of his/her interest in the land in accordance with Part V Town and Country Planning (Scotland) Act, 1997.

APPLICATION DETAILS

ADDRESS	14 Mortimer Court, Dalgety Bay, Dunfermline		
PROPOSAL	Alterations to existing rear extension including installation of roof lantern		
DATE VALID	23/08/2021	PUBLICITY EXPIRY DATE	24/09/2021
CASE OFFICER	Gary Horne	SITE VISIT	None
WARD	Inverkeithing And Dalgety Bay	REPORT DATE	02/12/2022

ASSESSMENT

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Scottish Government laid the latest National Planning Framework 4 before Parliament on Tuesday 8 November 2022. With the publication of NPF4 this is now a material consideration in the assessment of planning applications. NPF4, once adopted, will form part of the statutory Development Plan and provides the national planning policy context and agenda for the assessment of all planning applications. NPF4 has six overarching spatial principles to deliver sustainable places, liveable places, and productive places.

The policy context of NPF4 is set at a high level to provide directive but indicative policy context to be taken forward in further detail at a later date. The adopted FIFEplan LDP (2017) and associated Supplementary Guidance provides the most up to date expression of planning policy for Fife and continues to be part of the Development Plan until it is replaced. When NPF4 is adopted, the SESplan and TAYplan Strategic Development Plans and any supplementary guidance issued in connection with them cease to have effect and will not form part of the Development Plan.

In this context Fife Council Planning Services considers that while the finalised NPF4 is a material consideration, the detailed policy context in relation to the assessment and

determination of planning applications at the present time should still be assessed against the adopted FIFEplan Local Development Plan 2017.

Having assessed the current application against the policy provisions of the finalised NPF4 and the adopted FIFEplan LDP 2017 there are no policy conflicts which would prevent the determination of the application when assessed against the policy provisions of FIFEplan.

1.0 Background

1.1 This application relates to a single storey detached dwellinghouse situated within the Dalgety Bay settlement boundary. The property, which includes single storey side and rear extensions, is externally finished with a roughcast render, a pitched slated roof and uPVC windows. The development site is located within an established residential area set amongst properties of varying architectural form and scale.

1.2 This application seeks retrospective planning permission to raise the roof height of the rear extension

1.3 It is proposed to raise the roof height of the existing mono-pitch rear extension by raising the eaves of the rear elevation by approximately 2m to form a flat roof extension, to be rendered to match and including a roof lantern on the newly formed flat roof.

2.0 Assessment

2.1 The issues to be assessed against the Development Plan and other guidance are

- a) Design
- b) Residential Amenity

2.2 Design

2.2.1 Policy 1 and 10 of the Adopted FIFEplan Local Development Plan (2017) and Fife Council Planning Guidelines on Home Extensions (including garages and conservatories) (2010) apply in this respect.

2.2.2 The proposed works, which have been largely completed apart from the external rendering, have created a 4m high flat roof extension which is in close proximity the shared boundary and positioned adjacent the rear elevation of the neighbouring dwelling, distance approximately 5m from the rear windows of the neighbouring property. By virtue of the resultant mass and scale of the rear extension, it is considered that the formation of the enlarged extension has introduced an overbearing impact upon the adjacent neighbouring property and garden ground area, given its close proximity to the boundary. The increase in eaves height to form a flat roof has created a 4m high mass of blockwork and rendered walls which are at odds with the proportions and design of the existing dwellinghouse with no cohesion between the roof spaces of the original dwellinghouse, the existing garage and the now altered rear extension. Whilst the proposed finishing materials are considered appropriate, ultimately the proposed works are not considered to be a positive contribution to the surrounding residential environment and do not acquiesce with the aesthetic of surrounding streetscene, where it is viewable from several vantage points.

2.2.3 Two letters of representation have been received in this instance raising concerns with regards to the scale, design and appearance of the proposal. These concerns were noted and generally agreed upon, as noted within the paragraph above.

2.2.4 In light of the above, the proposal is considered unacceptable in this instance in terms of form, scale, massing and layout,; would have an adverse effect upon the surrounding environment and would therefore be contrary with the Development Plan and its related guidance.

2.3 Residential Amenity

2.3.1 Policies 1 and 10 of the Adopted FIFEplan, BRE's Site Layout Planning for Daylight and Sunlight: a guide to good practice (2011) and Planning Guidelines on Sunlight and Daylight apply in this respect.

2.3.2 Given the orientation of the development site in relation to the surrounding curtilages, it is considered that there would be no significant impact upon the daylight enjoyed within the neighbouring property or the sunlight enjoyed within the neighbouring rear amenity spaces. Those amenity spaces would still enjoy at least two hours of direct sunlight in accordance with the recommendations set out in the relevant BRE guidance.

2.3.3 Two letters of representation were received in this instance, one of which included concerns with regards to a loss of daylight within the adjacent neighbouring patio area. Whilst this concern has been noted, it is considered that the patio area of the neighbouring garden forms only part of the neighbouring garden area with the main section of usable garden ground sited to the rear of the property. As such, it is considered that whilst a section of the neighbouring garden would be overshadowed after 2pm in the afternoon, the main garden ground area to the rear of the property would be largely unaffected by the proposal and as such it is considered there would be no significant overshadowing issues in this instance.

2.3.4 In light of the above, the proposal is considered acceptable in this respect in terms of loss of, loss of natural light and loss of garden ground; would be compatible with its surrounds in terms of land use and would be in compliance with the Development Plan and relevant guidance.

CONSULTATION RESPONSES

None

REPRESENTATIONS

Two letters of representation have been received and have been addressed within sections 2.2.3 and 2.3.3 of this report.

CONCLUSION

The proposal is not considered to be acceptable in terms of its design and mass and as such would dominate and detract from the dwellinghouse and surrounding streetscene. The proposal is not therefore considered to comply with the relevant policies of the Development Plan and relevant Fife Council guidelines in this regard.

DETAILED RECOMMENDATION

The application be refused for the following reason(s)

1. In the interests of safeguarding visual amenity; the proposed alterations to the rear extension by virtue of the resultant scale, mass and design would dominate and detract from the appearance of the dwellinghouse and surrounding residential environment. The proposal is therefore contrary to Policies 1 and 10 of the FIFEplan (2017) and Fife Council's Planning Customer Guidelines on Home Extensions (including garages and conservatories) (2016).

and

That the appropriate enforcement action be taken with respect to the unauthorised activity

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

Development Plan

Adopted FIFEplan Development Plan (2017)

Other Guidance

BRE's Site Layout Planning for Daylight and Sunlight: a guide to good practice (2011)

Fife Council's Planning Customer Guidelines on Home Extensions (including conservatories and garages)

Fife Council's Planning Customer Guidelines on Daylight and Sunlight

Agenda Item 4(3)

**14 Mortimer Court, Dalgety Bay, KY11 9UQ
Application No. 21/02523/FULL**

Representation(s)

Comments for Planning Application 21/02523/FULL

Application Summary

Application Number: 21/02523/FULL

Address: 14 Mortimer Court Dalgety Bay Dunfermline Fife KY11 9UQ

Proposal: Alterations to existing rear extension including installation of roof lantern

Case Officer: Gary Horne

Customer Details

Name: Mr Keith Tomlinson

Address: 10 Mortimer Court, Dalgety Bay, Dunfermline, Fife KY11 9UQ

Comment Details

Commenter Type: Neighbour Notified

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This alteration has already been constructed externally, work started way back in June!

Full details of my comments have been forwarded to Fife Planning Department by Email 4/9/21.

Fife Planning Services have confirmed receipt of this Email 6/9/21.

I suspect that as the building has already been completed any comment/objection will be a bit of little relevance at this stage.

Dawn Batchelor

From: Keith Tomlinson <[REDACTED]>
Sent: 04 September 2021 16:26
To: Development Central
Cc: [REDACTED]
Subject: Application No 21/02523/FULL Neighbour Notification
Attachments: Phot 1.jpeg; Phot 2.jpeg; Phot 3.jpeg
Categories: In Progress

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Neighbour Notification Comments from 10, Mortimer Court, Dalgety Bay KY11 9UQ

Re Application 21/02523/FULL

Work started on the alteration to the existing rear extension at 14 Mortimer Court many weeks ago (prior to the end of June). As there was no notification from the Council and no contact at all from either the builders, owners, contractor or architect I assumed this was all done within permitted criteria. It seems as if this was not the case as I have now received a Neighbours Notification; this must of course be a retrospective planning application as the actual construction work is more or less complete. I must admit it was with some surprise and trepidation that I saw how high the construction was becoming.

There are a number of points I would like to comment on:

1. The "Elevation as existing" and "Elevation as proposed" drawings in the planning portal would appear to indicate that the alterations have lowered the extension. This is not the case as the extension is notably higher as well as losing the sloping roof line now replaced by a square roofline. Obviously the original structure is no longer visible due to the work having already been carried out and the available "before" photographs in the portal not making this apparent. However on the attached photographs 1,2 and 3 the original rendering can be seen showing the original size and sloping roofline of the extension.
2. The plans make no concession to the elevated position of No 14 Mortimer in context to some of the surrounding properties and ergo the enhanced height of any structures. No 10 Mortimer Court's patio is some 2ft below the base of the rear wall to the extension and so is even more susceptible to its height and gloom from lack of light.
3. The extension is only 5ft away from the fence on my patio (very close indeed when demolition/construction work begins with no prior notification from any of the parties involved) which is also where I have a side washing line. The original extension had a sloping roof coming down from the apex (again photographs 1,2 and 3 show this line) and thus the patio received the sun for most of the day and was a brightly lit area to sit in. The apex is now higher and the height of the alterations now being square across casts a shadow over the patio earlier in the day and the area is a lot gloomier at all times. There is also a certain amount of light restriction in the kitchen (see photograph 3 from kitchen window).

Note: I am aware that loss of view is not taken into consideration in planning matters, and there was never a particular view from my patio - but look at photograph 1 - that's my view now!

4. Now that the extension has been flattened out and the original sloping roofline removed an area of predominately bungalows now has a flat roofed construction (seen from the pavement of Mortimer Court in photograph 2). I don't think the area has any flatroofed structures this high.

Is it me or does it look like a guard watchtower from a war film?

Anyone is welcome to visit and observe the height of this extension from our property, I do not think viewing from the front or side gives the full impact.

Keith Tomlinson







Dawn Batchelor

From: Arthurspry <[REDACTED]>
Sent: 18 September 2021 09:32
To: Development Central
Cc: [REDACTED]
Subject: Re: Application No 21/02523/FULL Neighbour Notification
Attachments: 14 MC1.jpg; 14 MC2.jpg; 14 MC3.jpg; 14MC4.jpg; A103.pdf; A106.pdf
Categories: In Progress

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Neighbour Notification from 12 Mortimer Court, Dalgety Bay, KY119UQ.

Application No 21/02523/FULL.

My comments on the above application:

The external construction work on the extension to the property at 14 Mortimer Court is quite advanced. Having been a work in progress for the past three to four months, the original sloping tiled roof has been removed and the existing walls built up with breeze blocks to support a flat roof with a roof lantern atop, the harling to the walls has still to be done. At present external work appears to have slowed or stopped, presumably awaiting planning permission from this retrospective Planning Application.

I have spent time appraising the application by comparing it to the work carried out, and I feel compelled to point out that the work carried out is at variance to scale drawings A103 and A106 (copies attached). Measured accurately on the scale drawings the height from the garage roof to the new flat roof is 0.5 metres. However, during construction the builder has added three more courses of breeze block which adds another 0.5 metres to the height and, as a consequence, the height of the rear wall is now 4.4 metres instead of 3.9. The effect is that the extension is higher than planned. I have attached photographs and request you view them to compare the work done against the the scaled drawings. In summery, scale drawing A106 shows the new flat roof should be positioned at mid height between the garage roof and the building eaves, but photographs 14MC1 and 14MC2 show the flat roof has been built right up to the eaves - i.e. an additional three courses of breeze block. Surely the builder would not have done that if he was working to the drawings in this planning application. However, since drawing A106 revision D is dated 23/08/2021, he probably didn't have a copy!.

The extension as it stands is far from ascetically pleasing - drab and tower like. Quite unlike the original extension, where its sloping roof blended in with the sloping roofs of the surrounding buildings and was quite unobtrusive. This new extension which can be seen from the street sticks out like the proverbial sore thumb! The third photograph 14MC3 shows the rear wall overlooking my neighbour house. Not a pretty sight! And photograph 14MC4 shows the view from the street.

Stating the obvious: the works should not have started without planning permission and completed works must be in accordance with what's been approved. If this application as presented is approved, then the extension being built is too high and needs to be lowered by removing the top three courses of breeze block. If this does not happen, how can Planning Services issue a Building Warrant and subsequent Completion Certificate?

I conclude my comments by requesting Planning Services visit site and confront the Agent, 1st Architects, to determine what's going on.

Arthur Spry









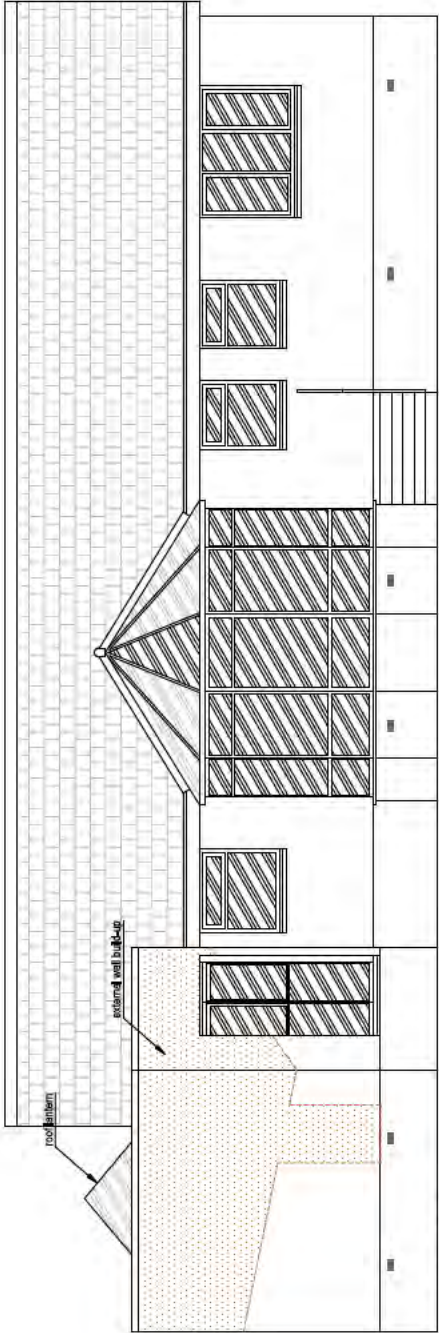
ELEVATIONS AS PROPOSED



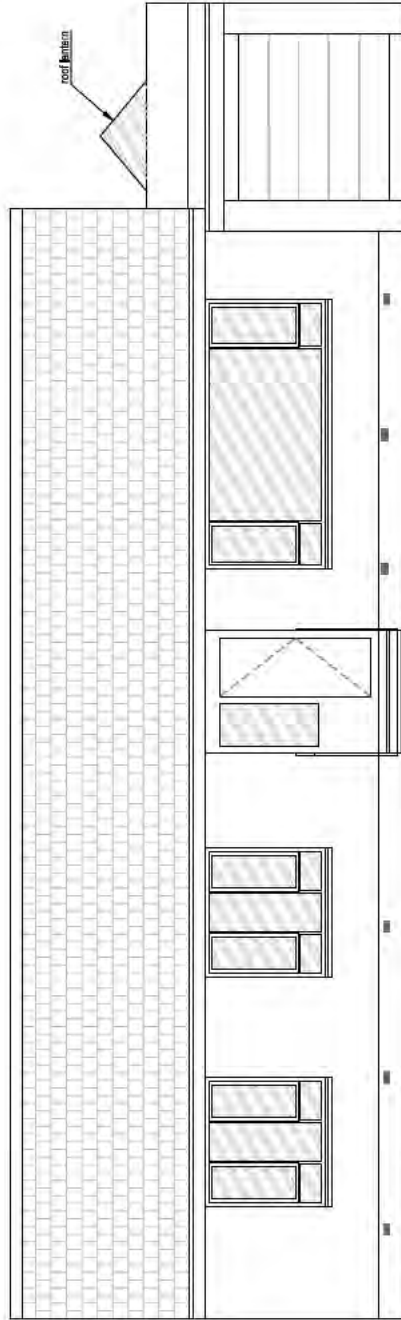
10 Post Office Lane, North Queensferry, Fife, KY11 1JP
 Tel: 01383 417509 Fax: 01383 417512
 www.1st-architects.com

NOTE: All existing dimensions must be checked on site by the contractor prior to work commencing. Any discrepancies must be reported prior to works starting.

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rear elevation
1:50

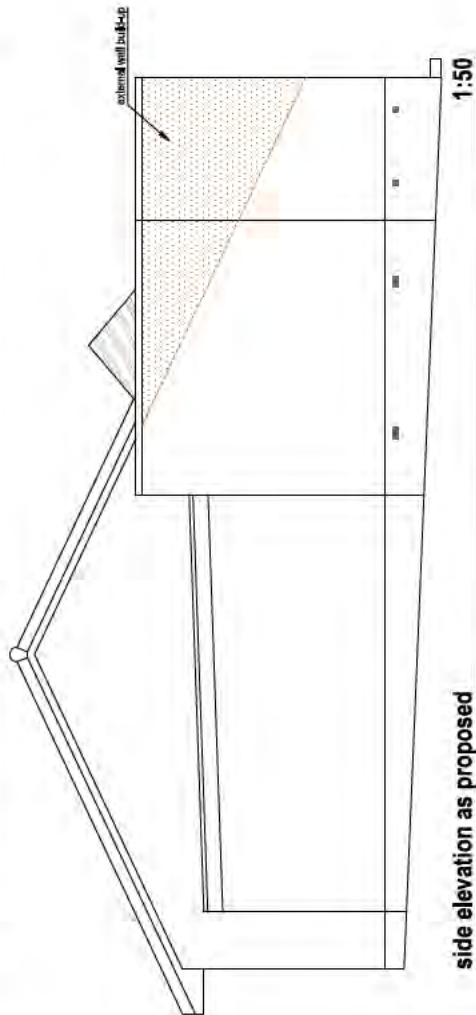
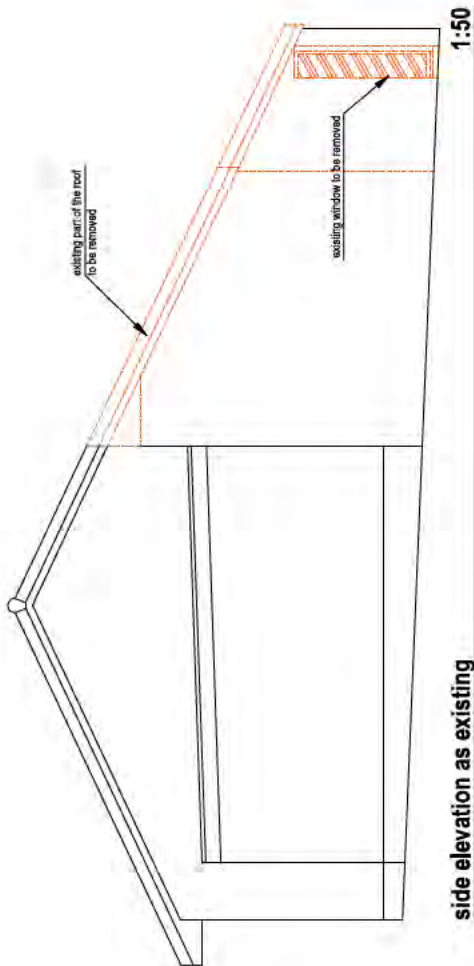


front elevation
1:50



Stage:	PLANNING	
Project:	14 MORTIMER COURT	
Client:	CATH CHORLEY	
Project Address:	14 MORTIMER COURT DALGETY BAY, KY11 8UQ	
Title:	ELEVATIONS AS PROPOSED	
Drawn by:	Checked by:	Project no:
KK	AN	
Date:	29/05/2021	2101
Scale:	Drawing no	Rev.
1:50 (A3)	A103	

ELEVATIONS AS EXISTING/AS PROPOSED



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Stage:	PLANNING	
Project:	14 MORTIMER COURT	
Client:	CATH CHORLEY	
Project Address:	14 MORTIMER COURT DALGETY BAY, KY11 8UQ	
Title:	SIDE ELEVATIONS AS EXISTING /AS PROPOSED	
Drawn by:	Checked by:	Project no:
KK	AN	
Date:	23/05/2021	2101
Scale:	Drawing no:	Rev:
1:50 (A3)	A106	D

Agenda Item 4(4)

**14 Mortimer Court, Dalgety Bay, KY11 9UQ
Application No. 21/02523/FULL**

Further Representation(s)

From: [REDACTED]
To: [Michelle McDermott](#)
Subject: Re: Application Ref. 21/02523/FULL - 14 Mortimer Court, Dalgety Bay
Date: 24 February 2023 12:51:08

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Ms McDermott,

Thank you for your e-mail asking if I wish to make further any further representations. This I do regarding the appeal submission. Please e-mail me back confirming you have received it.

The Architect states that the glass roof light projects slightly above 4 metres. I challenge this statement. The actual height of the rendered wall is 4.4 metres, and there is at least half a metre of glass lantern mounted atop. So, in my opinion, the slightly above 4 metres is in reality slightly below 5 metres.

The Architect submits drawing A106, dated 23/08/2021, revision A , which shows the wall should be built to a height of 3.9 metres (see IMG 0106). Instead the wall is built to a height of 4.4 metres. So drawing A106, revision A, isn't representative of what's been built. At the time of the initial application drawing A106 was revision D, which also gave the wall height as 3.9 metres. In my initial objection I asked how a Completion Certificate could be issued if the extension isn't built in accordance with the drawings. So, there's no change here.

The Architect submits photographs, and makes comments which I paraphrase: "From the front elevation facing the street the flat roof neatly tucks under the existing roof so that it is exactly lower than the pitched roof it replaces"... "Even looking obliquely from the front street, the new roofline is unobtrusive"... "The dominant feature is actually the (objecting) neighbours' garage which sticks out in front of the applicants house for its full length, rather than the applicants flat roofed dining room which tucks neatly behind her flat roofed garage and is barely visible as you approach the house". I can accept these comments are valid when the extension is viewed from the Southwest, but from this viewpoint there's not much of it to see. However, walk round the street a little and view the extension from the Southeast, and from this viewpoint the new roofline can hardly be described as "unobtrusive". Standing tall and tower like - shielded a little by my garden fence - the applicants' flat roofed dining room, which tucks neatly behind her flat roofed garage, is probably the tallest flat roofed building in Dalgety Bay (see IMGs 0103 & 0105)

The extension as it stands is far from aesthetically pleasing - drab and tower like. Unlike the original extension, where its sloping roof blended in with the sloping roofs of the surrounding buildings and was quite unobtrusive.

Planning Permission for the extension has been refused. Refused not only in terms of scale, mass and design, but also because it falls foul of a number of Fife

Council Planning Policies.

I remain an objector, the appeal should fail.

Yours sincerely,

Arthur Spry

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

From: Michelle McDermott <Michelle.McDermott@fife.gov.uk>

To: [REDACTED]

Sent: Thu, 16 Feb 2023 12:40

Subject: Application Ref. 21/02523/FULL - 14 Mortimer Court, Dalgety Bay

Dear Mr. Spry,

**Town & Country Planning (Scotland) Act 1997
The Town & Country Planning (Schemes of Delegation & Local Review
Procedure) (Scotland) Regulations 2013**

I refer to the above application, details of which are set out below.

A copy of the Council's Decision Notice in relation to this application is enclosed for your assistance. However, in response to that decision, the applicant has made an application for a review of that decision by the Fife Planning Review Body. 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.

In accordance with the Regulations, I am writing to you to ask if you wish to make any further representations in relation to the review of the original decision. The Review Body will be given copies of your original representations.

If you do wish to do so, you have fourteen days from the date of this notice to make such representations and should do this by sending your comments in writing to me.

The applicant will then be sent a copy of these representations and will then be entitled to make comments on those representations which will also be placed before the Local Review Body when it considers the review.

Please note that all documentation in relation to this review, including any representations you may make, will be placed online at www.fife.gov.uk/planning.

A copy of the Notice of Review and other documents related to the review can be viewed online as above.

If you have any queries in relation to the procedure, or anything else, please do not hesitate to contact me.

Yours sincerely,

Michelle McDermott,
Committee Officer.

Enc.

Note Referred to:-

Name of Applicant:	Mrs. Catherine Chorley
Address of Site:	14 Mortimer Court, Dalgety Bay
Description of Application:	Alterations to existing rear extension including installation of roof lantern

Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council
Fife House, North Street,
Glenrothes, Fife, KY7 5LT
Email: michelle.mcdermott@fife.gov.uk

I am currently working from home

I can be contacted by email at michelle.mcdermott@fife.gov.uk

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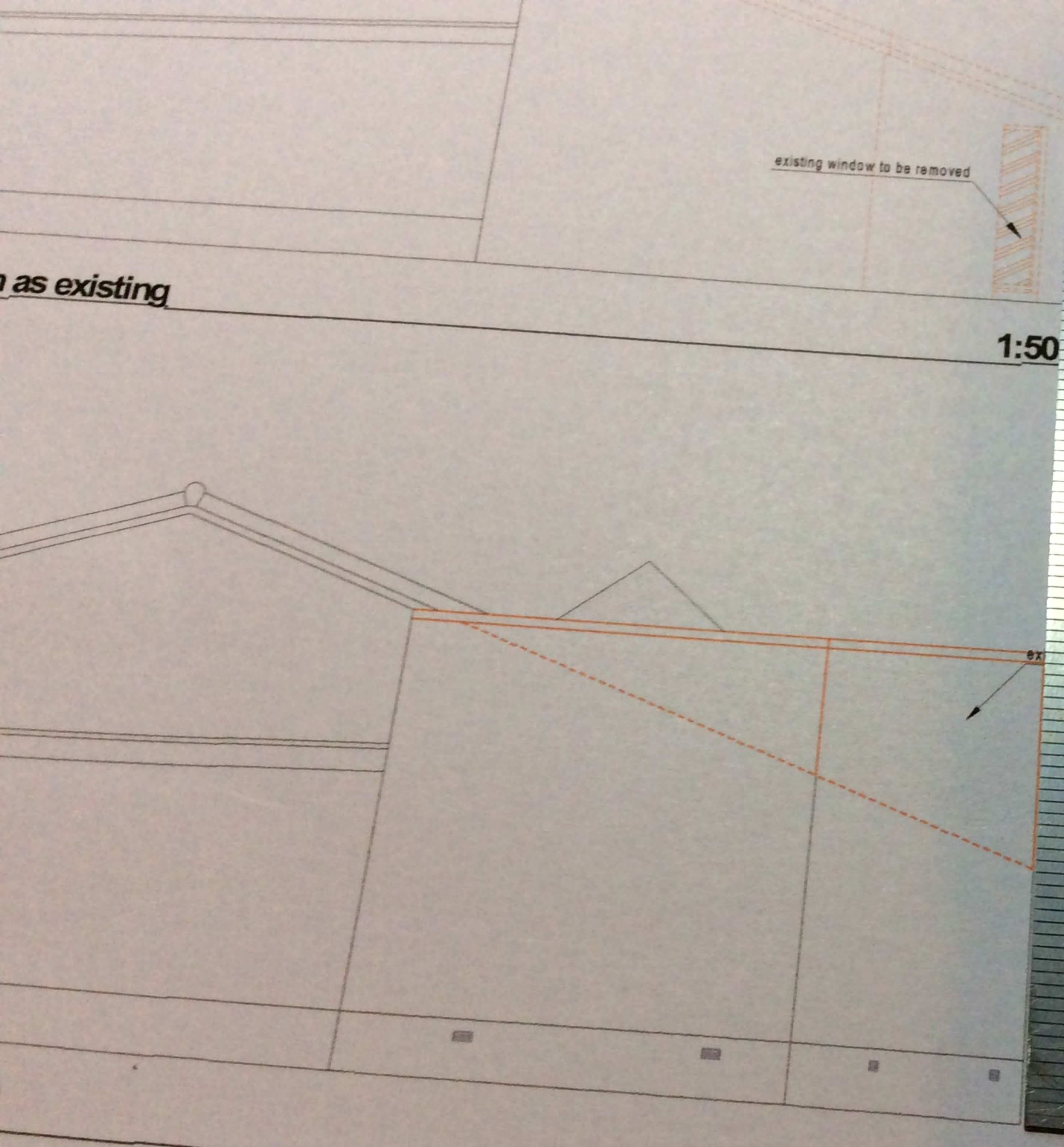
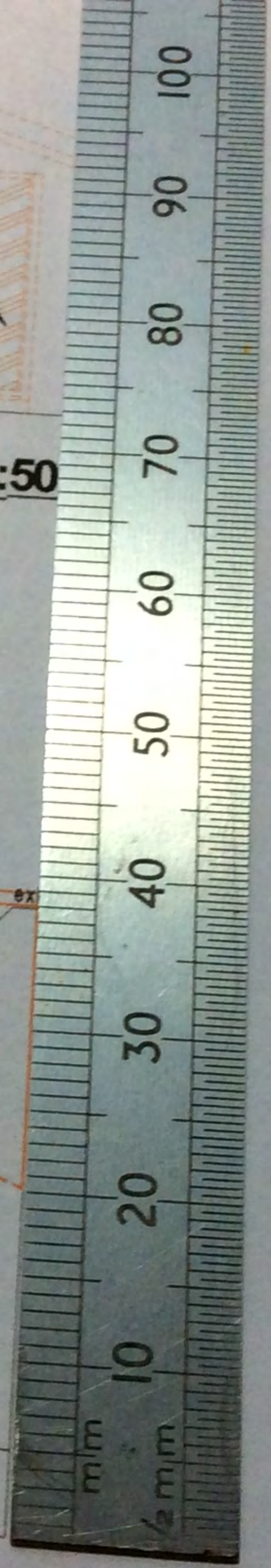
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as existing

existing window to be removed

1:50

1:50







From: [REDACTED]
To: [Michelle McDermott](#)
Subject: Re: Application Ref. 21/02523/FULL - 14 Mortimer Court, Dalgety Bay
Date: 24 February 2023 13:21:03

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Dear Ms McDermott,

Further to your email, I would like to make the following further representation to Application Ref 21/0523/FULL:

Would appreciate it if you could confirm receipt of this Email.

The two photographs submitted by the agent in the review of refusal show views from the front of the property which indeed appear unobtrusive. It is worth noting that these views are from the Cul-de-Sac end of Mortimer Court which has no further pedestrian access and therefore is only ever passed and sighted by the occupants of the 7 residences in this section of the road. The side of the extension however is on the section of Mortimer Court which leads to a footpath leading to Donibristle Primary School and Longhill Park and is subsequently used by schoolchildren, parents, dog walkers, rambles etc. The view they all see is not the front of the property but the side (which the agent dismisses as “not the principal elevation” nor indeed even provides a photograph of it). Photograph 1 attached is the actual view from the pavement showing differing rendering colours, a flat top clearly well above the height of the single storey flat top of the garage and directly contrasting to the slated sloped roofs of the adjacent buildings. Indeed it looks like a large square mass dropped in situ – let's hope King Charles doesn't ever pop up the road!

The agent indicates that the removal of the existing window has improved my situation as it was overlooking my garden; the removed window was a fixed unit with densely frosted glass and actually overlooked the garden shed in No 14, it was certainly no impairment to me, however I am now faced with a huge slab of wall on which the rendering is already deteriorating rapidly due to what appears to be a fault in the roofing material. This has allowed rain water to run down the wall which is now creating a green mould, not to mention what may be affected behind the exterior electric fitting as seen Photograph 2.

I am also now subjected to the noise of cascading water during heavy rainfall which can be heard in my bedroom which is some 3 to 4 meters from the extension. This is coming from a drain pipe from the roof which is not attached to any downpipe or drain but just (noisily) falls straight to the ground. See Photograph 3.

I have no knowledge of the ins and outs of Building Standards or Planning Regs so I have to assume this is a correct system of drainage and it has passed those regulations. I had however also mistakenly assumed that when the extension started to get higher and higher during build (especially as no contact had been made by anyone regarding what was happening) that it was all within regulations, only to find that remarkably, once the whole build was complete, those involved then discovered planning permission was required.

The agent states that changing to a flat roof is following the original design aesthetic of the estate (pitched roof houses with flat roofed ancillary buildings) but this seems higher than any other flat roofed building I can see in the area and this stands out starkly in Photograph 1 with the garage height also shown.

I do not consider there to be any change to the original reasoning for refusal from the Planning Department in that “by virtue of the resultant scale, mass and design would dominate and detract from the appearance of the dwellinghouse and surrounding

residential environment.”

Yours sincerely

Keith R Tomlinson

On 16/02/2023 12:39, Michelle McDermott wrote:

Dear Mr. Tomlinson,

**Town & Country Planning (Scotland) Act 1997
The Town & Country Planning (Schemes of Delegation & Local
Review Procedure) (Scotland) Regulations 2013**

I refer to the above application, details of which are set out below.

A copy of the Council’s Decision Notice in relation to this application is enclosed for your assistance. However, in response to that decision, the applicant has made an application for a review of that decision by the Fife Planning Review Body. 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.

In accordance with the Regulations, I am writing to you to ask if you wish to make any further representations in relation to the review of the original decision. The Review Body will be given copies of your original representations.

If you do wish to do so, you have fourteen days from the date of this notice to make such representations and should do this by sending your comments in writing to me.

The applicant will then be sent a copy of these representations and will then be entitled to make comments on those representations which will also be placed before the Local Review Body when it considers the review.

Please note that all documentation in relation to this review, including any representations you may make, will be placed online at www.fife.gov.uk/planning.

A copy of the Notice of Review and other documents related to the review can be viewed online as above.

If you have any queries in relation to the procedure, or anything else, please do not hesitate to contact me.

Yours sincerely,

Michelle McDermott,
Committee Officer.

Enc.

Note Referred to:-

Name of Applicant:	Mrs. Catherine Chorley
Address of Site:	14 Mortimer Court, Dalgety Bay
Description of Application:	Alterations to existing rear extension including installation of roof lantern

Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council
Fife House, North Street,
Glenrothes, Fife, KY7 5LT
Email: michelle.mcdermott@fife.gov.uk

I am currently working from home
I can be contacted by email at michelle.mcdermott@fife.gov.uk

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Agenda Item 4(5)

**14 Mortimer Court, Dalgety Bay, KY11 9UQ
Application No. 21/02523/FULL**

Response to Further Representation(s)

From: [Adrian Neville](#)
To: [Michelle McDermott](#)
Subject: RE: Application Ref. 21/02523/FULL - 14 Mortimer Court, Dalgety Bay
Date: 13 March 2023 14:43:16
Attachments: [image001.png](#)

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Thank you, I have checked the measurements and can confirm that the height from the top of the parapet wall around the roof to the slabbed walkway below is 4.0 meters.

Adrian



12 Post Office Lane, North Queensferry, Fife, KY11 1JP
t: 01383 417509 m. 07977007820 www.1st-architects.com

From: Michelle McDermott <Michelle.McDermott@fife.gov.uk>
Sent: Monday, February 27, 2023 11:39 AM
To: Adrian Neville <adrian@1st-architects.com>
Subject: Application Ref. 21/02523/FULL - 14 Mortimer Court, Dalgety Bay

Dear Mr. Neville,

I refer to the above and to your application for review. The attached representations have been received from interested parties. You are now entitled to make any comments on these representations to the Local Review Body. You may do so by sending your comments in writing to me within fourteen days of the date of this email.

Thereafter, your application for review, the representations received, and any comments you have made will be placed before the Local Review Body for decision.

I will write to you again at the end of the fourteen day period referred to above and advise you of the date when the Local Review Body is to consider your case.

Please note that all documentation in relation to this review, including any

representations or further comments you may make, can be viewed online at www.fife.gov.uk/planning.

Yours sincerely,

Michelle McDermott.

Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council
Fife House, North Street,
Glenrothes, Fife, KY7 5LT
Email: michelle.mcdermott@fife.gov.uk

I am currently working from home

I can be contacted by email at michelle.mcdermott@fife.gov.uk

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Fife Council

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Agenda Item 4(6)

**14 Mortimer Court, Dalgety Bay, KY11 9UQ
Application No. 21/02523/FULL**

**Comments on National Planning
Framework 4 (NPF4)**

- This is the applicant's response to the planning advisors NPF4 position statement. The applicant is concerned that this reads like an attempt to justify the original decision rather than a fair assessment (as required of a LRB planning advisor) against NPF4.
- Whilst we acknowledge that NPF4 is a material consideration we would also suggest that considerable weight should be allocated to the fact that the original application was submitted prior to NPF4.

FIFE LOCAL REVIEW BODY

Application 21/02523/FULL – 14 Mortimer Court, Dalgety Bay, KY11 9UQ

Request for comments on National Planning Framework 4.

LRB Planning Adviser's NPF4 Position Statement.

The purpose of NPF4 seeks to create a national and long-term spatial strategy for future development in Scotland on behalf of the Scottish Government. Accordingly, a series of overarching spatial priorities and planning policies are identified that seek to guide development planning within Scotland. However, given the general overarching remit of this document and the large-scale spatial principles, some of the wider strategic policy ambitions are less relevant to smaller-scale or householder planning applications. Nevertheless, as NPF4 now forms part of the Development Plan for Fife, it takes primacy in decision making alongside FIFEPlan and its corresponding Supplementary Guidance documents.

Accordingly, whilst there are limited provisions within NPF4 that considered to be relevant to a proposal of this nature and scale, the following are deemed to apply by the LRB Planning Adviser:

NPF4 Policy 1 (Sustainable Places) - requires that significant weight will be given to the global climate and nature crises for all developments. This represents an overarching policy ambition but these principles apply to all development proposals to minimise carbon emissions and encourage nature/biodiversity enhancements. The proposal would likely introduce higher quality building design and sustainability techniques, particularly given a requirement for enhanced insulation treatments set out within Building Standards regulations since the original extension was constructed. Such approaches should seek to conserve energy and reduce heat loss which accords with the policy principles set out within NPF4 Policy 1.

Applicant Response: The alterations increase the thermal efficiency of the room in question to comply with the current building regulations. The proposal therefore complies with the NPF4 Policy 1.

NPF4 Policy 14 (Design, Quality & Place) – identifies a series of requirement to ensure that proposals are of a high quality design, take into consideration the Scottish Government six qualities successful place and avoid poorly designed outcomes that would result in detriment to the amenity of the surrounding area. In this regard, the proposal is considered to create a visually dominant addition from various interfaces, including adjacent residential properties. This would result in unreasonable visual massing to the determinant of the surrounding context and the amenity of nearby residents. There is therefore insufficient evidence to demonstrate that the proposal would comply with the six qualities of successful place. Specifically, it would not create a 'respectful design' of an appropriate scale within the immediate context whilst also resulting in detrimental visual amenity impacts to residential occupiers. It is therefore considered that the proposal would not comply with NPF4 Policy 14.

Applicant Response: We believe the statement *“In this regard, the proposal is considered to create a visually dominant addition from various interfaces”* is at the very least misleading .

From the principal elevation the proposal actually reduces the height of the extension very slightly. I would also argue that with the removal of the high level windows it is actually less dominant when viewed from the street.

In setting out our analysis of the context, i.e. how the original designers of the estate juxtaposed the main pitched roof with ancillary adjacent flat roofs we clearly demonstrated how the proposal was “respectful” of its context and location.



Before



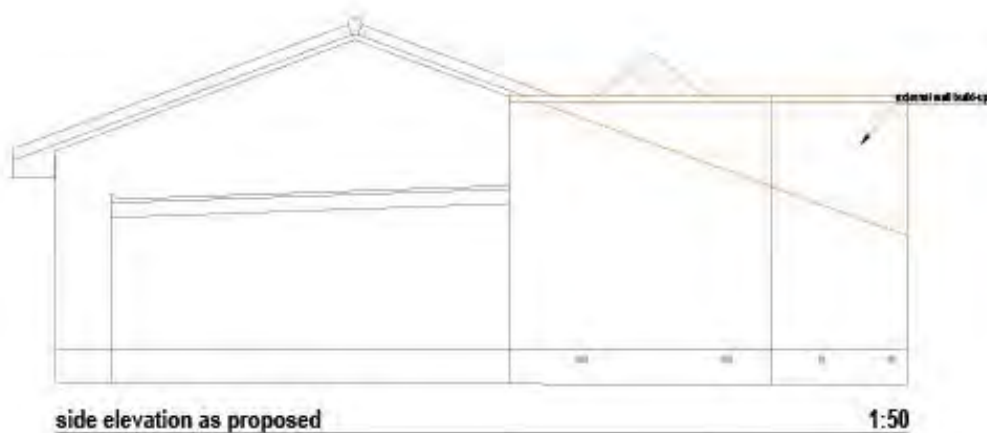
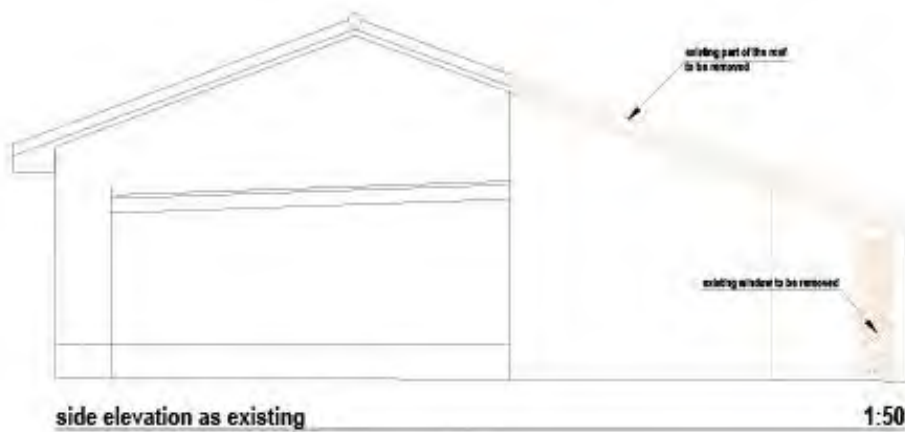
After

- Even looking obliquely from the front street the new roofline is unobtrusive. Here’s a photograph from this angle. Whilst it can be also be seen looking across two back gardens from the road around the corner this is not the principal elevation and is across back gardens.

The dominant feature is actually the (objecting) neighbours flat roofed garage which, as seen here, sticks out in front of the applicant’s house for its full length, rather than the applicants flat roofed dining room which tucks neatly behind her flat roofed garage and is barely visible as you approach the house.



Applicant Response: Because of the removal of the steps for disabled access the height (of the lowest point of the roof) at the rear does increase slightly as shown below.



Applicant Response: But the use of a flat roof has kept the increase to a minimum and the overall height is well below the ridge line of the house.

The applicant therefore considers that the proposal complies with NPF4 Policy 14.

NPF4 Policy 16 (Quality Homes) – the purpose of this policy seeks to ensure the delivery of more high quality, affordable and sustainable homes in the right locations to meet diverse housing needs. It also seeks to support the delivery of new homes that meet the needs of people throughout their lives via new homes that improve choice by being adaptable to changing and diverse needs. Finally, it strives for good quality homes that contribute to strengthening the health and wellbeing of communities. Policy 16 (g) requires that ‘*Householder development proposals will be supported where they: i. 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 ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking*’.

Regarding adaptability and change, the proposal would achieve the intent of this objective, by altering an extension to provide flexible, accessible accommodation to the existing residents, notwithstanding that it does not provide a ‘new home’ per the intent of this policy objective. With respect to amenity, it is considered that proposal would not have any unreasonable overshadowing to adjacent residential garden ground nor any potential overlooking. However, the height and massing of the proposal, specifically the works above the previous roofline, have the potential to result in detrimental physical impacts to surrounding residents. Significant weight is apportioned to this policy ambition in assessing compliance with this policy. Consequently, given the potential for these detriment visual amenity impacts to residential occupiers, the proposal is not considered to comply with NPF4 Policy 16.

Applicant Response: The statement already agrees that the application complies with the requirements for flexibility and accessibility. This is particularly important in Dalgety Bay where there is a shortage of accessible accommodation. Again, the statement agrees that the proposal does not create overshadowing or overlooking. We have replaced a window looking towards neighbours with one in the roof, a further illustration of how respectful the design has been of the neighbours. Given the above, the fact that the new roof is well below the ridgeline of the house, the design in accordance with the “pitched and flat” style of the original development, the applicant believes we have demonstrated that there is no significant detriment to visual amenity and the proposal complies with **NPF4 Policy 16 (Quality Homes)**

We would also comment that this is not a new extension. It is simply the reroofing of a 25 year old extension to allow disabled access!

Please find attached/enclosed a link to the NPF4 Document ([Link](https://www.transformingplanning.scot/national-planning-framework/))
<https://www.transformingplanning.scot/national-planning-framework/>

Agenda Item 5(1)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

Notice of Review



Fife House North Street Glenrothes KY7 5LT Email: development.central@fife.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 100447142-006

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:	Sunshine Design and Planning		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Mary	Building Name:	Wester Balbeggie Farm
Last Name: *	Murray	Building Number:	<input type="text"/>
Telephone Number: *	07917890715	Address 1 (Street): *	Balbeggie Avenue
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	Kirkcaldy
Fax Number:	<input type="text"/>	Country: *	Scotland
		Postcode: *	KY1 3NS
Email Address: *	mary@sunshinedesignandplanning.co.uk		

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" value="Lea Rig"/>
First Name: *	<input type="text" value="Maureen"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Penman"/>	Address 1 (Street): *	<input type="text" value="Tyrie Farm"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Kirkcaldy"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="KY2 5UQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Fife Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="41 LEARMONTH PLACE"/>
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="ST ANDREWS"/>
Post Code:	<input type="text" value="KY16 8XF"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="71557"/>	Easting	<input type="text" value="350107"/>
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Description of Proposal

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

Installation of air source heat pump.

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

The Applicant is seeking a review because she considers the application has not been assessed fairly and reasonably in line with the Planning (Scotland) Act 2019 (see also Appeal Statement submitted alongside this application).

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)

Email from WSP (Acoustic Consultant) dated 19/12/22 explaining predicted indoor NR level of 8 at neighbouring property (39 Learmonth Place). This was not raised before determination because the Applicant believed she had complied with the Planning Officer's information requirements in a letter from Fife Council dated 06/05/22 and that the dBA figures in WSP's MCS Calculation (08/02/22) should have been enough for Environmental Services to advise the Planners with regard to indoor NR levels.

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)

LRB Appeal Statement WSP memo dated 08/02/22 (in Appeal Statement Appendix A) WSP email dated 08/02/22 (in Appeal Statement Appendix B) WSP email dated 06/04/22 (in Appeal Statement Appendix C) Sunshine Design and Planning email dated 13/05/22 (in Appeal Statement Appendix D) WSP email dated 19/12/22 (in Appeal Statement Appendix E) Supporting Statement submitted with planning application 21/02318/FULL Site layout plan Site analysis plan

Application Details

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

21/02318/FULL

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

19/07/2021

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

03/10/2022

Review Procedure

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

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

Yes No

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 *

Further written submissions on specific matters

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)

The Applicant requests an Acoustic Consultant be appointed to advise the LRB upon specialist technical matters relating to the issue of noise emitted by the air source heat pump.

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)

A site inspection is requested in order that the LRB, and Acoustic Consultant, can see and hear the heat pump.

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mrs Mary Murray

Declaration Date: 21/12/2022

Appeal Statement

Submitted in connection with a Local Review Body Appeal against refusal of Planning Permission

Planning Application Reference Number 21/02318/FULL
(amendment to 19/02448/FULL)

Installation of Air Source Heat Pump
41 Learmonth Place, St Andrews, KY16 8XF

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
Mob.: 07917 890715 Email: mary@sunshinedesignandplanning.co.uk



Appeal Statement

Statement prepared in support of:

Local Review Body Appeal against refusal of planning application 21/02318/FULL
Installation of Air Source Heat Pump at 41 Learmonth Place, St Andrews, Fife, KY16 8XF

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Appeal Statement prepared by:

Mary Murray

Sunshine Design and Planning, Wester Balbeggie Farm, Kirkcaldy, KY1 3NS
21 December 2022

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
Mob.: 07917 890715 Email: mary@sunshinedesignandplanning.co.uk



1.0 Appeal Request

- 1.01 This statement is submitted in connection with an appeal to Fife Council's Local Review Body against the refusal of Planning Application Reference Number 21/02318/FULL for the installation of a Samsung air source heat pump (model: AE080RXYDEG/EU&AE200RNWMEG/EU) at 41 Learmonth Place, St Andrews, KY16 8XF.
- 1.02 The Applicant is Mrs Maureen Penman.
- 1.03 The Agent dealing with the application on behalf of Mrs Penman is Mary Murray of Sunshine Design and Planning
- 1.04 The Applicant submits a review request because she considers the application has not been assessed fairly and reasonably in line with the Planning (Scotland) Act 2019.
- 1.05 The Applicant wishes the review to be conducted by way of a site inspection and, where the Review Body deem appropriate, by the holding of one or more hearing sessions.
- 1.06 Given the history of this case, the Applicant also considers it appropriate that, under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, an Assessor be appointed to advise the Local Review Body upon specialist technical matters relating to the issue of noise emitted by the air source heat pump as it is clear from the Report of Handling for this application that noise is the sole reason why the application was refused.
- 1.07 In this case, the issue of noise is a sufficiently complex technical matter which the Local Review Body may find difficult to properly assess without the benefit of explanation in layman's terms from a third party representative who has had no previous involvement in the application, or the history of the site, and who is suitably qualified to provide informed and unbiased advice.



2.0 Proposal Details and Application Process

- 2.01 The application under consideration, reference number 21/02318/FULL, is for permission to re-position the air source heat pump serving a new build house which had previously been approved in a different location on the same site at 41 Learmonth Place, St Andrews, under planning consent reference number 19/02448/FULL (approved 01 November 2019).
- 2.02 Following submission of the application to re-position the heat pump, one neighbour lodged two objections to the proposal: one email and one report. Despite containing a number of factually incorrect and misleading claims, these objections were considered in detail by the Planning Officer dealing with the case. It is clear from correspondence subsequently issued by Fife Council that the key issues which gave the Planning Authority cause for concern were not whether the Air Source Heat Pump (ASHP) was supported by Planning Policy but whether it had been assessed and installed by an MCS (Microgeneration Certification Scheme) Approved Installer and whether or not the noise emitted by it was causing a significant adverse impact on the community or the environment.
- 2.03 At this point it is important to note that the Objector claimed that the ASHP did not comply with MCS Planning Standards because it was located less than one meter away from the Applicant's property boundary. This claim was checked by Fife Council's Legal Department and the Planning Officer noted in her Report of Handling that:
- "Unlike in England, there is **no requirement in Scotland** under the General Permitted Development (Scotland) Order 1992 as amended, for an ASHP to be set back at least 1.0 metre from a garden boundary."*
- 2.04 During the application process, Fife Council requested details of the installer of the heat pump. The Applicant provided these details and the Planning Officer checked and confirmed that the Installer was, indeed, MCS Certified. The Contractor who fitted the heat pump has been registered as an MCS Certified Installer since January 2011. To date, he has successfully fitted no less than 200 air source heat pumps.
- 2.05 Fife Council also asked for the heat pump to be re-assessed by an MCS Approved Installer. However, due to the lack of precision in the software which is used by MCS Approved Installers (ref. point 2.07 below) the Applicant felt that an assessment by an MCS Approved Installer would not accurately reflect the conditions on the site with regard to the position of the heat pump. Instead, she felt that a review by a qualified Acoustician would give a more accurate assessment.
- 2.06 Under the MCS Installation Standards, prior to installing an air source heat pump, MCS Approved Installers assess the proposed installation by following an ASHP pump calculation procedure. This is a nine-step assessment which enables Installers to work out whether the noise emitted by the heat pump would be equal to or lower than the permitted development noise limit of 42.0 dB(A) at potential noise receptors, referred to as "assessment positions".
- 2.07 To assist in carrying out the calculation procedure, Certified Installers have access to MCS approved software which they can use to make these assessments. The problem with this software is that, under step 2 of the calculation, a factor referred to as 'Q' is



used to determine the 'directivity' of surfaces which surround the heat pump and which have the potential to reflect noise. The software only allows directivity ('Q') factors of either 2, 4 or 8 to be applied. This can give rise to misleading results because these factors are based on the number of surfaces surrounding a heat pump and do not take into account the size and exact position of those surfaces. As such, the MCS approved software is limited in its accuracy when assessing the potential for surrounding surfaces to reflect noise emitted by a heat pump.

- 2.08 Taking the concerns of the Objector seriously, and in an attempt to assure Fife Council that the installation was compliant with MCS Planning Standards, the Applicant approached a specialist Acoustic Consultant, Robert Marriner of WSP, experienced in preparing noise calculations for ASHP's, and asked him to comment upon the installation at 41 Learmonth Place. Using photographs and site measurements he established an accurate 'Q' factor of 4.007 for the installation and ran the MCS Procedure Calculation (ref. Appendix A) using that factor. The result of his calculation was 40.3 dB(A) which, when rounded up to 41 db(A), was shown to be **lower** than the MCS permitted development noise limit of 42.0 dB(A).
- 2.09 This calculation was submitted to Fife Council, along with Robert Marriner's accompanying email dated 08/02/22 (ref. Appendix B) and thereafter published on the Council's planning portal for application 21/02318/FULL. In April 2022, the Objector made contact direct with Robert Marriner stating that she believed his report to be wrong with regard to the assessment position and the number of reflective surfaces. Robert Marriner informed Fife Council that he had been contacted by the Objector and that he would address her comments by way of email response to the Planning Officer dealing with the case (ref. Appendix C: WSP email to Kirsten Morsley dated 06/04/22).
- 2.10 The Review Body will see from these emails that Robert Marriner explains the shortcomings of the simplified acoustic principles of the MCS Planning Standards, with particular regard to calculation of the 'Q' factor. He then details the site-specific characteristics of the heat pump installation at 41 Learmonth Place and, with factual analysis, defends the accuracy of his MCS Procedure Calculation.
- 2.11 In light of the foregoing, it is easy to see why the Applicant thought she had provided a more reliable version of the MCS assessment of noise at the Objector's property than that which an MCS Certified Installer could provide and is genuinely puzzled as to why Fife Council's Report of Handling for application number 21/02318/FULL (dated 01/09/22) states that there was insufficient supporting documentation provided by the Applicant with regard to the installation and on-site noise assessments to demonstrate that the proposed ASHP complies with MCS Planning Standards.
- 2.12 Furthermore, the Applicant takes issue with the Planning Authority regarding this reason for refusal because of the content of a letter sent by Planning Services to the Agent on 06 May 2022. In that letter, Fife Council gave the Applicant three possible approaches to progress matters **in the right direction**. The first of these three options was:
1. *Have the ASHP installation re-assessed by a MCS certified installer. If we receive confirmation from a certified MCS Installer that the installation complies with the MCS installation standards **we could progress the application favourably.***



2.13 At that point in time, the Planning Officer was already in receipt of the aforementioned correspondence from WSP and the Agent advised the Planning Officer that the Applicant had effectively demonstrated compliance with this first option. A copy of the email sent by the Agent expressing this position is contained in Appendix D. No further comment or correspondence was received from Fife Council until 29 August 2022, when an email from the Planning Officer advised:

"I shall be chasing Environmental Services again for their current deliberations on the above application so that I am in a position to progress the planning application."

2.14 At this stage, some three months later, there was no suggestion that the information submitted by the Applicant was still considered insufficient. Indeed, reference to the "current deliberations" of Environmental Services gave the impression that a response from Environmental Services to correspondence submitted by both the Agent and WSP in May 2022 was awaited by the Planning Officer.

2.15 Given that the Applicant had submitted an accurate version of the MCS Procedure Calculation in relation to an assessment position at the Objector's property which demonstrated compliance with the permitted development noise limit for that position, and, having received a letter from the planning authority stating that if it could be demonstrated that the installation complied with the MCS Standards that the Council could "progress the application favourably", the Applicant fully expected her application to be approved.

2.16 The success of this application hinged entirely upon the issue of noise. The Applicant took that concern seriously and obtained a detailed analysis of the heat pump installation by a Specialist Acoustic Consultant. It is neither fair nor reasonable of Fife Council to **not** accept a more accurate MCS Procedure Calculation prepared by WSP in favour of a less accurate version provided by an MCS Approved Installer.

2.17 The Applicant also addresses the second reason cited for refusal in the Report of Handling that refers to a noise condition in the original planning consent (19/02448/FULL) which states:

"The total noise from all plant, machinery or equipment shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation. For the avoidance of doubt, daytime shall be 0700-2300hrs and night time shall be 2300 - 0700hrs."

2.18 This reason for refusal came as a surprise to the Applicant. Having provided details of the Installer, knowing Fife Council had checked he was MCS Certified and, having provided proof from a suitably qualified acoustic specialist that the installation complied with the MCS Calculation Procedure, the Applicant felt that she had satisfied the requirements of the first option in Fife Council's letter dated 06 May 2022, thus allowing the Council to "progress matters in the right direction" and to "progress the application favourably". She was **not** advised that she was also required to provide evidence that the installation would comply with this condition as well.



- 2.19 When Robert Marriner was given a copy of the Report of Handling, he addressed this reason for refusal by providing clarification, in layman's terms, of the sound levels predicted in his MCS Procedure Calculation. This clarification is detailed in an email from Robert Marriner to the Agent dated 19/12/22 (ref. Appendix E). In that email, Robert explains that the predicted indoor NR level at 39 Learmonth Place would be **17 dB below** the night-time limit stipulated in the above-noted planning condition. This is not marginally below; it is **well below** the night time noise level which is considered permissible.
- 2.20 The Applicant believes that, having provided Robert Marriner's MCS Procedure Calculation, Fife Council's Environmental Services department would have been equipped with sufficient information to make the same, or similar, analysis of it with regard to NR levels and that they should have advised their Colleagues in Planning Services accordingly in August 2022 when the Planning Officer was awaiting their "current deliberations".
- 2.21 Finally, the Scottish Government advises that when Planning Authorities are securing sufficient information to determine planning applications:
- "Information requests for microgeneration need to be proportionate to the scale of development."*
- 2.22 The Applicant asserts that the information she provided was both proportionate and appropriate for the installation of an air source heat pump for a single dwellinghouse, particularly in light of guidance referred to under Permitted Development legislation and the MCS Planning Standards.



3.0 Noise.....

3.01 The Planning Policy documents relevant to this appeal are as follows:

- 3.01.01 Scottish Planning Policy (2014)
 - PAN 1/2011 – Planning and Noise.
 - FIFEplan (2017)
 - Low Carbon Fife Supplementary Planning Guidance (2019)
 - Making Fife's Places – Supplementary Guidance (2018)

3.02 As highlighted in the Report of Handling, national level planning policy (SPP14) states that:

*“Planning Authorities **must support** the transition to a low carbon economy and promote the use of sustainable energy generation...”*

and that:

*“Microgeneration and heat recovery technologies associated with individual properties **should be encouraged**...”*

3.03 It is clear that there is a national drive to dramatically reduce carbon emissions from all sources and this naturally points to the use of renewable energy technologies in all types of housing across Scotland. In Fife, this is promoted under FIFEplan Policy 11 (Low Carbon) whereby planning permission will **only** be granted for new development that incorporates low and zero carbon generating technologies.

3.04 So, when it comes to individual dwellinghouses, why choose a heat pump? Well, heat pumps use electricity to drive the heat transfer process. They extract renewable heat from air outside the home. In this process, the heat output is greater than the electricity input, making ASHP's an energy efficient method of heating the home.

3.05 With specific regard to the air source heat pump at 41 Learmonth Place, the Installer further explains that:

“in terms of hot water production the unit is set in Samsung controller to take water to 50 degrees from a sensor low in hot water cylinder and the trigger after it reaches its target temp of 50 degrees is 45 degrees so it allows it to drop by 5 degrees from its set temperature and quickly comes on to start topping it up at 45 degrees so it's never really having to work too hard as it only has to lift it (the water temperature in the hot water cylinder) by 5 degrees, you also can have a scenario that you could take one or maybe two showers before you even hit the trigger point of 45 degrees as it's a 300 litre capacity hot water cylinder and highly insulated.”

3.06 According to a report by the Carbon Trust, heat pumps are a highly efficient form of electric heating that have the potential to deliver CO₂ savings of 60% to 70% compared to conventional electric heating and 55% to 65% compared to an A-rated gas boiler. As such, it is clear that heat pumps have the potential to reduce carbon emissions by a staggering amount.



- 3.07 Having chosen to install a heat pump one needs to consider what level of noise it is likely to emit prior to installation. As the Objector points out, this should be done using the MCS Planning Standards for Air Source Heat Pumps and the Calculation Procedure detailed therein. With regard to noise, the Applicant, by appointing an MCS Certified Installer to fit the heat pump and by submitting the WSP calculation contained in Appendix A, effectively assessed and demonstrated compliance with these standards. Although it is unfortunate that the latter may not have been provided prior to installation, the results of the calculation prepared by WSP are, nonetheless, still valid.
- 3.08 Notwithstanding this demonstration of compliance, the Applicant reverts to comment in the Report of Handling that low carbon technologies should not result in unacceptable **significant** adverse impact on the **community** or the environment. Planning authorities therefore apply **proportionate** and **reasonable** conditions to planning consents in line with the scale of development proposed. This explains why the noise condition NR 25 in bedrooms during the night with windows open for ventilation is a standard condition attached to planning consents for heat pump installations.
- 3.09 Here, the Applicant notes that the complaint regarding noise, which the Objector attributes to the air source heat pump at 41 Learmonth Place, appears to have been raised by **one** member of a family of four (two adults and two teenagers) residing at 39 Learmonth Place. In the two years since the heat pump has been working, the Applicant is aware of no other noise complaints having been raised in connection with it. Bearing in mind the fact that WSP have calculated the predicted indoor NR level at 39 Learmonth Place to be **17 dB below** the night time level stipulated in condition 2 of planning consent 19/02448/FULL (ref. point 2.19), the Applicant asks the Local Review Body to determine whether the Objector's complaint is credible and whether, or not, the ASHP at 41 Learmonth Place genuinely constitutes a "**significant** adverse impact on the **community**".
- 3.10 Additionally, the Applicant would like the Local Review Body to question very carefully the following claim which the Objector, who lives at 39 Learmonth Place, made in relation to the air source heat pump at 41 Learmonth Place:

"I hear the noise and feel the vibrations in my ears in all the rooms upstairs and downstairs even through closed double-glazed windows."

- 3.11 Given that the predicted indoor noise level at night is calculated as NR 8 (**17 dB below the permissible NR 25 limit**), the Applicant would like the Review Body to consider whether the Objector's claims would bear scrutiny.
- 3.12 The Objector also stated that:

"Due to the average temperature in Scotland between mid-September and mid-May, the device is almost always on night and day in those months, and it is also frequently on for hot water in other months as well. It should also be taken into consideration that even in warm months, as mentioned in the brochure, a household's daily usage of hot water (instant boiling water taps, shower, dishwasher, washing machine) means that if, for instance, one wants to shower at 7am, the system must be set to start at 5am and work for two hours if it is to provide hot water for 7am. This means that for just a shower the system needs to go through the above-mentioned noisy cycles



for two hours, which means that I am forced to wake up at 5am and stay awake for two hours every day because the residents of no. 41 want to take their daily morning showers..."

- 3.13 This statement gives rise to the question: how *does* a heat pump work? Samsung note that a heat pump is a simple technology that uses electricity and free energy in the air to create heat that can warm a house and produce hot water. It extracts heat energy from the outside air then concentrates that heat energy and passes it into water that circulates around the home to provide central heating and hot water.
- 3.14 Contrary to the Objector's claim that the system must be set to start at 5am if one wants a shower at 7am, Samsung state that heat pumps heat water in a cylinder so that "it's there whenever you need it". The system doesn't know when you might want a shower so it keeps water hot continuously in order that you can have a shower whenever you like, without having to flick a switch and wait for two hours whilst the system warms sufficient water for that purpose.
- 3.15 As noted by the Installer, the heat pump is set to maintain a constant temperature (50 degrees) in a large, hot water storage cylinder, with top-up heating called upon when the temperature drops to 45 degrees. Therefore, top-up heating does not follow a set pattern of timing every day. Given ever changing, daily weather patterns and temperatures, it is extremely unlikely that the heat pump comes on and off at the same time every morning as the Objector suggests.
- 3.16 Finally, with regard to renewable energy technologies, the Applicant notes that the Scottish Government's Microgeneration planning advice (online) states:

*"... there is an onus upon planning authorities to respond to the Climate Change (Scotland) Act and Section 3F of the Town and Country Planning (Scotland) Act 1997, which **requires** Local Development Plan (LDP) policies for emissions reduction of new buildings through the use of renewable energy technology."*

and that:

*"air source heat pumps often have the appearance of air conditioning units and can be attached to a building or be free standing. They are **commonly very quiet in operation** and can transfer the heat to an air blown heating system or a hot water system."*



4.0 Environmental Services and Noise Monitoring.....

- 4.01 The Applicant is aware that the Objector raised a noise complaint regarding the heat pump at 41 Learmonth Place with Fife Council's Environmental Health Department and that this led to on-site noise monitoring at 39 Learmonth Place in May 2021. The Applicant was advised that further noise monitoring was planned later that year during winter months. However, until such time as the Report of Handling was published, the Applicant was not aware that two further noise recordings had indeed been carried out: one in November 2021 and another again in January 2022.
- 4.02 The Applicant is understandably puzzled as to why three separate recordings have been conducted to assess the noise output from her air source heat pump and that she has only been sent the first set of recordings but not the second or third.
- 4.03 Upon reading the Report of Handling, the Applicant was troubled to find that the Planning Authority have received letters from the Objectors' GP highlighting noise and vibration issues. The Applicant notes that these comments are assumptions based purely on observations made by the Objector. Furthermore, there is no evidence that any disturbance is coming directly from the air source heat pump at 41 Learmonth Place.



5.0 Summary and Conclusion

- 5.01 It is clear from many residential developments in Fife and across Scotland as a whole that air source heat pumps are generally accepted and encouraged as low carbon technologies suitable for heating new dwellinghouses. Scottish Government Planning Policy encourages their use and Planning Authorities consider them acceptable where installed in line with MCS Planning Standards for Air Source Heat Pumps. This is confirmed by the fact that an air source heat pump was originally approved as part of the new build house proposed at 41 Learmonth Place, St Andrews, albeit in a different position on the site, under planning consent reference number 19/02448/FULL.
- 5.02 The position of the heat pump was moved during construction and, following receipt of complaints from a neighbour, the Applicant applied (21/02318/FULL) for permission to retain the pump in its new position.
- 5.03 When considering whether the heat pump is acceptable, the following facts must be taken into account:
- 5.03.01: Does the heat pump have to be located more than 1m away from the Applicant's property boundary: **NO**.
- 5.03.02 Are air source heat pumps encouraged by Local and National Planning Policies: **YES**.
- 5.03.03 Was the heat pump at 41 Learmonth Place installed by an experienced and MCS Certified Installer: **YES**.
- 5.03.04 Can the Applicant demonstrate that the predicted noise emitted by the make and model of heat pump installed complies with the 42.0 dB(A) level considered acceptable under the MCS Calculation Procedure for air source heat pumps: **YES**
- Note: ref. Appendix A - MCS Calculation Procedure followed by Specialist Acoustic Consultant, Robert Marriner of WSP giving a predicted noise level of 40.3 dB(A).*
- 5.03.05 Can the Applicant provide evidence that the noise emitted by the heat pump should not exceed the NR25 and NR30 noise limits considered acceptable indoors with windows open at night and day time respectively: **YES**.
- Note: ref. Appendix E - Robert Marriner email dated 19/12/22 explaining how the predicted dB(A) noise level of 40.3 dB(A) converts to an indoor NR level of NR 8; 17 dB below the NR 25 level which is deemed acceptable.*
- 5.03.06 Have any neighbours, other than the sole Objector residing at 39 Learmonth Place, complained about noise emitted by the heat pump which has been installed and which has been fully operational at 41 Learmonth Place for more than two years: **NO**.



- 5.04 NR25 allows a reasonably acceptable level of noise to be heard indoors at night with windows open for ventilation. It recognises that built environments have a soundscape and does not require or expect them to be completely silent.
- 5.05 One individual has objected to application 21/02318/FULL. The Applicant is concerned that the nature and volume of complaints made by this Objector, not just about noise but also about the qualifications and actions of various parties involved in the installation and application process are confusing, intimidating and misleading and obfuscate the key issue at stake, i.e. does the heat pump constitute a noise nuisance which would have a genuine, significant adverse impact upon the community or the environment in which it is located or is it, **in fact**, acceptable.
- 5.06 In order to cut through the numerous complaints lodged made by the Objector, the Applicant would like the Local Review Body to appoint a suitably qualified Assessor to evaluate the technical aspects of her application and advise them accordingly. She also asks that they visit the site to hear the heat pump and, alongside to the specialist advice suggested, decide whether *they* consider the noise emitted to be acceptable.
- 5.07 The Applicant is certain that the air source heat pump installed at 41 Learmonth Place does not give rise to unacceptable noise levels. She trusts that the Local Review Body will reach a considered conclusion regarding her appeal and notes she will be happy to answer, where reasonably possible, any questions arising as a result of the appeal process.



Appendix A

WSP Memo dated 08 February 2022 responding to comments made by Planning Officer in respect of application 21/02318/FULL and providing an MCS Procedure Calculation (assessment position at 39 Learmonth Place) for the air source heat pump installation at 41 Learmonth Place, St Andrews.





MEMO

TO	Mary E. Murray – Sunshine Design and Planning	FROM	Robert Marriner – WSP Acoustics
DATE	08 February 2022	CONFIDENTIALITY	Public
SUBJECT	41 Learmonth Place, St Andrews: Acoustic analysis in relation to an air source heat pump		

We have reviewed photographs, measurements and background information in relation to the recent air source heat pump (ASHP) installation at the above property. The ASHP is installed in a small masonry shelter at the south-west boundary of the property facing towards open land, such that the ASHP itself is screened from the houses of 39 and 41 Learmonth Place. We have undertaken this review based on the Microgeneration Installation Standard: MCS 020 issue 1.3, a completed copy of which is attached to this memo.

We trust that the analysis below will demonstrate that the ASHP as installed is compliant with the permitted development noise limit and may therefore be permitted development.

REVIEW OF PLANNING OFFICER COMMENTS

We have been provided with the following comments made by the planning officer in relation to this ASHP, and present below our comments from an acoustical viewpoint.

The planning officer writes (1):

"I also draw your attention to the table below which has been taken from the MCS Standards which highlights what is required in terms the number of reflective surfaces for a MCS compliant installation. The table would suggest that the current installation is in breach of this guidance in that it has more than 3 reflective surfaces. We are therefore requesting that your MCS installer gives us feedback on this issue and confirms how the current installation complies."

We comment (1):

We anticipate the wall to the left of the ASHP (as viewed from a position facing the front of the ASHP) to have no significant effect on noise levels at any of the neighbouring houses. If it caused any negligible effect, it would be beneficial as far as no. 39 is concerned due to the extent to which it will provide acoustic screening of the sound.

The planning officer writes (2):

"I also draw your attention to the table below which has been taken from the MCS Standards which highlights what is required in terms the number of reflective surfaces for a MCS compliant installation. The table would suggest that the current installation is in breach of this guidance in that it has more than 3 reflective surfaces. We are therefore requesting that your MCS installer gives us feedback on this issue and confirms how the current installation complies."

We comment (2):

Note 3 on page 20 of the MCS standard is a simplified model for directivity to be used in the calculation.





Something which is not very clear from the figures in the MCS standard is that each reflecting surface would need to be large compared to the source of sound and the wavelength of the sound in order to be an effective reflector. The figure is slightly misleading in the sense that it appears to show 'reflecting' surfaces that are not much larger than the sound source.

The small walls to the sides of the ASHP in question would be relatively ineffective reflectors, and would have only a very small effect on the directivity of the unit.

There is a further note within note 3 that reads "*an air source heat pump with more than three reflective surfaces (for example those within small lightwells) will not meet the MCS planning standards*". Based on our experience and understanding of the acoustical theory that underpins this calculation step, we consider this note to apply to situations where there are more than three reflective surfaces that are large compared to both the sound source and the wavelength. This could be the case for small lightwells or the end of a narrow path. However, this is not the case for the ASHP installed at 41 Learmonth Place.

CALCULATION OF Q FACTOR

The Q shown in note 3 indicates hemispherical, quarter-spherical and eighth-spherical sound radiation. This is a common representation of Q as it provides a quick and easy way to visualise sound directivity. However, it can in fact be calculated for any part-spherical radiation pattern using the relative positions of the sound source and any adjacent reflective surfaces.

We understand that the ASHP is set back from the front of the open side of the shelter by approx. 40 mm, and has distances of 340 mm and 220 mm to the left and right respectively, and a clear space of 940 mm above it.

Using these dimensions, we have calculated the vertical and horizontal angles for sound dispersion to be as follows:

- Horizontal: 179.78°
- Vertical: 89.96°

Using these angles, we calculate the Q value for this installation to be 4.007. This is very close to the Q value of 4 for quarter-spherical radiation. On this basis, it can be concluded that the effect of the side walls of the shelter have a negligible effect on the sound propagation compared to if they were not present.

AIR SOURCE HEAT PUMP NOISE CALCULATION

We have completed Table 2 of the MCS standard based on the drawings received and details for the ASHP unit found via the internet. For reference, we understand the ASHP model to be a Samsung AE080RXYDEG, and based on a sales brochure this unit has a sound power level of 63 dB L_{WA} .

The complete MCS standard calculation is attached to this memo. In summary, the outcome is a sound pressure level of 29 dBA at the façade of 39 Learmonth Place. When added to the assumed background sound level of 40 dBA (step 7 of the calculation) this results in a final result of 40.3 dBA (step 9). Based on the guidance in step 10, this indicates that the air source heat pump will comply with the permitted development noise limit.





MICROGENERATION INSTALLATION STANDARD: MCS 020

MCS Planning Standards for Permitted
Development Installations of Wind
Turbines and Air Source Heat Pumps
on Domestic Premises

This Microgeneration Installation Standard is the property of MCS Charitable Foundation, Suite F40, Innovation Centre, Sci-Tech
Daresbury, Keckwick Lane, Cheshire WA4 4FS. Registered Charity No. 1165752

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3. MCS PLANNING STANDARD FOR AIR SOURCE HEAT PUMPS

3.1 The MCS Planning Standard for air source heat pumps is as follows:

- (a) The air source heat pump product shall be certificated in accordance with MCS 007³;
- (b) The air source heat pump shall be installed by an MCS Contractor in accordance with MIS 3005⁴; and
- (c) The installation shall be carried out in compliance with the calculation procedure contained in Table 2. MCS Contractors must complete the 'results/notes' column in Table 2 for each step of the calculation procedure to show how it has been followed.

AIR SOURCE HEAT PUMP CALCULATION PROCEDURE

3.2 The air source heat pump calculation procedure is set out in Table 2. MCS Contractors must complete one table for each assessment position that could potentially be affected by noise from the air source heat pump. To follow the instructions and complete the table, MCS Contractors will need to refer to the definitions at the start of the table and Notes 1-7 set out after the table. A glossary of terms can be found in Section 4.

3.3 MCS Contractors must insert their results in the 'results/notes' column for each step of the calculation procedure to show how it has been followed. MCS Contractors must retain one copy of the completed table for their records and provide another copy to the client.

3.4 Explanation of the calculation procedure is supported by a worked example which is in italics at the end of each step in the table. In the example, an air source heat pump with a sound power of 55 dB(A) mounted on the ground and against a single wall is used. An assessment position is 4 metres away. This example is used for the purposes of illustrating the calculation procedure only.

³The Microgeneration Certification Scheme Standard MCS 007 – Issue 4.0. Product Certification Scheme Requirements: Heat Pumps. Dated 01/05/2015

⁴The Microgeneration Certification Scheme MCS Contractor Standard MIS 3005 – Issue 4.2. Requirements for Contractors Undertaking the Supply, Design, Installation, Set to Work Commissioning and Handover of Microgeneration Heat Pump Systems. Dated 01/05/2015



TABLE 2: USE ONE TABLE FOR EACH ASSESSMENT POSITION TESTED

<p>Date calculation undertaken:</p> <p>Note: for the purposes of this calculation procedure:</p> <ul style="list-style-type: none"> • Assessment position means a position one metre external to the centre point of any door or window to a habitable room of a neighbouring property as measured perpendicular to the plane of the door or window. • Habitable room means a room other than a bathroom, shower room, water closet or kitchen. • Neighbouring property. Means any building used for any of the purposes of Class C of the Town and Country Planning (Use Classes) Order 1987 (as amended) (includes dwellings, houses, hotels, residential institutions and houses in multiple occupation). In instances where the air source heat pump would be installed on block of flats, neighbouring property includes flats within the same block of flats (excluding the flat of the "owner(s)" of the air source heat pump. 	
<p>Description of assessment position tested</p> <p>(This must be detailed enough to allow for identification, including property address and exact location of window / door opening and floor level. It is recommended that a map, sketch, photo or other record be attached to these workings.)</p>	
<p>First floor window of 39 Learmonth Place, St Andrews (closest noise sensitive property to the house served by the ASHP).</p> <p>When height difference is taken into account, the distance is 9 m.</p>	
<p><i>Example: The assessment position is the first floor bedroom window of 1 Oak Street and it is 4 metres away from the location of the proposed air source heat pump.</i></p>	

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Step	Instructions	MCS contractor results / notes
1	<p>From manufacturer's data, obtain the A-weighted sound power level of the heat pump. See '<u>Note 1: Sound power level</u>'. The highest sound power level specified should be used (the power in "low noise mode" should not be used).</p> <p><i>Example: Manufacturer's data states the sound power level of the heat pump is 55 dB(A).</i></p>	<p>STEP 1 RESULT =</p> <p>Model: AE080RXYDEG 63 dB L_{WA}</p>
2	<p>Use '<u>Note 2: Sound pressure level</u>' and '<u>Note 3: Determination of directivity</u>' below to establish the directivity 'Q' of the heat pump noise.</p> <p><i>Example: The heat pump is to be installed on the ground and against a single wall hence the directivity (Q) of the heat pump noise is Q4.</i></p>	<p>STEP 2 RESULT =</p> <p>4.007 (Calculated based on dimensions of the shelter in which the ASHP is installed - see attached memo for details)</p>
3	<p>Measure the distance from the heat pump to the assessment position in metres.</p> <p><i>Example: Distance between heat pump and assessment position is 4 metres.</i></p>	<p>STEP 3 RESULT =</p> <p>9 metres</p>
4	<p>Use table in '<u>Note 4: dB distance reduction</u>' below to obtain a dB reduction.</p> <p><i>Example: 4metres @ Q4 = -17 db.</i></p>	<p>STEP 4 RESULT =</p> <p>-24 dB (calculated using point source propagation equation)</p> $L_p = L_N + 10 \log (Q / (4 \pi r^2))$

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5.	<p>Establish whether there is a solid barrier between the heat pump and the assessment position using '<u>Note 5: Barriers between the heat pump and the assessment position</u>' and note any dB reduction.</p> <p><i>Example: There is a brick wall between the heat pump and the assessment position. Moving less than 25cm enables the assessment position to be seen. dB reduction = -5 dB.</i></p>	<p>STEP 5 RESULT =</p> <p>-10 dB</p>
6.	<p>Calculate the sound pressure level (see '<u>Note 2: Sound pressure level</u>') from the heat pump at the assessment position using the following calculation: (STEP 1) + (STEP 4) + (STEP 5)</p> <p><i>Example (55) + (-17) + (-5) = 55 - 17 - 5 = 33 dB(A) Lp</i></p>	<p>STEP 6 RESULT =</p> <p>63 -24 -10 29 dB</p>
7.	<p>Background noise level. For the purposes of the MCS Planning Standard for air source heat pumps the background noise level is assumed to be 40 dB(A) Lp. For information see '<u>Note 6: MCS Planning Standard for air source heat pumps background noise level</u>'.</p> <p><i>Example: Background noise level is 40 dB(A).</i></p>	<p>STEP 7 RESULT =</p> <p>40 dB(A)</p>
8.	<p>Determine the difference between STEP 7 background noise level and the heat pump noise level using the following calculation: (STEP 7) - (STEP 6)</p>	<p>STEP 8 RESULT =</p> <p>11 dB</p>



	<p><i>Example: 40 dB(A) (background) - 33 dB(A) (heat pump) = 7dB(A).</i></p>	
9.	<p>Using the table in 'Note 7: Decibel correction' obtain an adjustment figure and then add this to whichever is the higher dB figure from <u>STEP 6</u> and <u>STEP 7</u>. Round this number up to the nearest whole number.</p> <p><i>Example: Adjustment figure is 0.8 dB and the higher figure is 40 dB(A).</i></p> <p><i>40 + 0.8 = 40.8 dB(A).</i></p> <p><i>Rounded up to 41 dB(A)</i></p> <p><i>Final result at this assessment position is 41 dB(A).</i></p>	<p>FINAL RESULT=</p> <p>40 + 0.3 = 40.3 dB</p>
10.	<p>Is the FINAL RESULT in STEP 9 equal to or lower than the permitted development noise limit of 42.0 dB(A)?</p> <p>If YES - the air source heat pump will comply with the permitted development noise limit for this assessment position and may be permitted development (subject to compliance with other permitted development limitations/conditions and parts of this standard). NOTE - Other assessment positions may also need to be tested.</p> <p>If NO - the air source heat pump will not be permitted development. This installation may still go ahead if planning permission is granted by the local planning authority.</p> <p><i>Example: 41 dB(A) is equal to or lower than 42.0 dB(A).</i></p>	<p>Final result is equal to or lower than 42.0 dB(A)</p> <p>YES / NO (delete as appropriate)</p>



Appendix B

WSP email dated 08 February 2022.

Mary Murray

From: Marriner, Robert <robert.marriner@wsp.com>
Sent: 08 February 2022 12:56
To: Jane Downie; Mary Murray
Subject: RE: Air Source Heat Pump - 41 Learmonth Place, St Andrews
Attachments: 41 Learmonth Place - WSP Acoustics memo.pdf

Good afternoon Jane, Mary,

I am pleased to attach a short memo that summarises the contents of my email below and a revised calculation as promised. I hope this demonstrates that the ASHP should be compliant. The noise level predicted at your neighbours' house is very low. For reference, the calculation outcome is 29 dBA outside the first floor window. To put that in context, 30 dBA is a good noise level target for indoor noise at night, so it should not present any problem at all as an outdoor sound level.

I hope this clears it up for you. if you need anything else or have any queries, my phone numbers are below.

Kind regards



Robert Marriner
Associate Director, Acoustics
BA MSc MIOA

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Appendix C

WSP email dated 06 April 2022.



Mary Murray

From: Marriner, Robert <robert.marriner@wsp.com>
Sent: 06 April 2022 09:58
To: Kirsten Morsley
Cc: Mary Murray; Beamish, Louise
Subject: RE: Re. 21/02318/Full - 41 Learmonth Place St. Andrews
Attachments: 41 Learmonth Place - WSP Acoustics memo (rev1).pdf

Good morning Kirsten

Thank you for your confirmation. Our response to Parmis Mozafari's comments are detailed below. Please also find attached a revised version of our memo, which corrects a mistake on page one that incorrectly quoted one of the planning officer's comments twice.

We have received the following comments directly from Parmis Mozafari, resident at 39 Learmonth Place, St Andrews, relating to a WSP memo (8 February 2022) detailing acoustic analysis for an air source heat pump (ASHP) at 41 Learmonth Place. The comments read as follows:

"Dear Louis,

Please find attached the report.

I believe the following issues are wrong with the report:

- 1. the assessment position*
- 2. the number of the reflective surfaces*

Please note that since this is a complaint case and because the main assessment point (1 meter of a window/door of my house) is accessible, the professional judgment has no relevance here.

*Kind regards,
Parmis"*

As you have confirmed (5 April 2022), this is an on-going live application and all correspondence should therefore be through Fife Council. We present below our responses to the above comments for your consideration. We are happy for you to provide these responses to Parmis Mozafari directly, and/or for them to be published on the Fife Council planning portal with the application, if necessary.

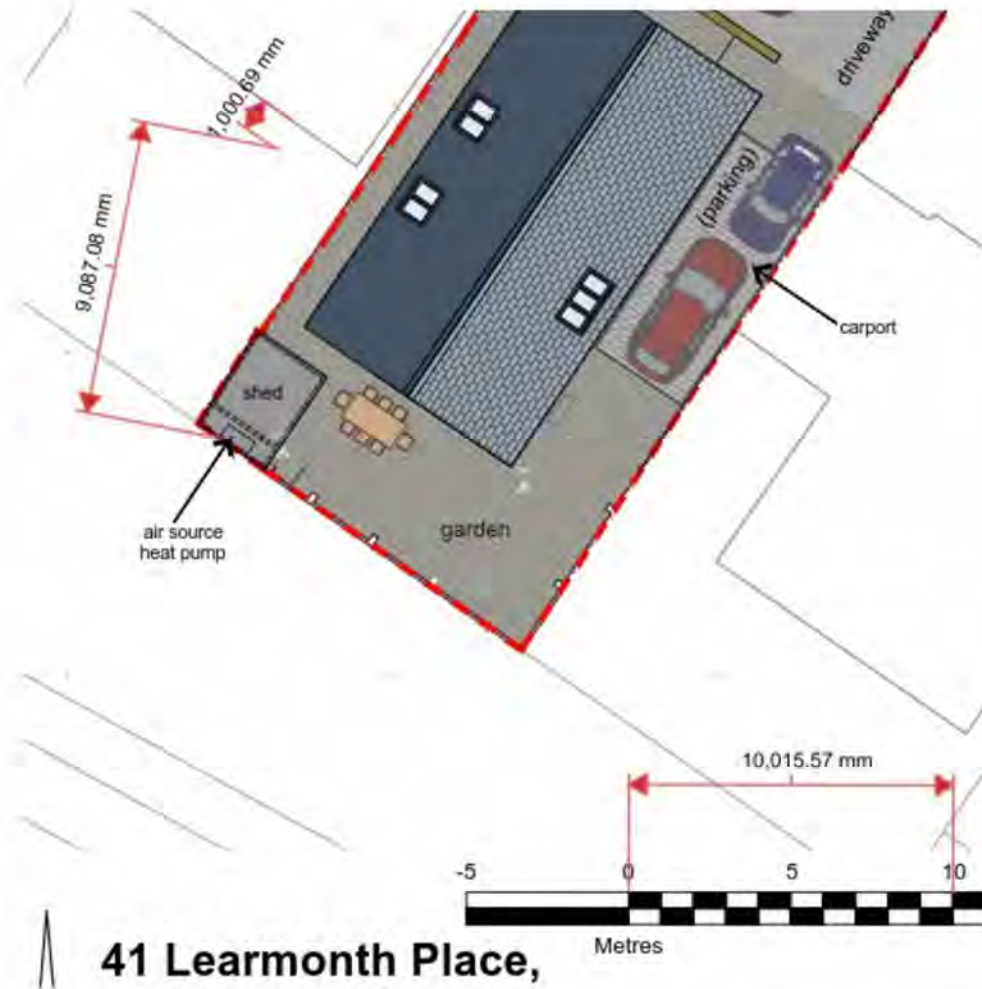
The Assessment Position

The assessment position adopted in the WSP memo is 1 metre from the first floor window of 39 Learmonth Place. This is in accordance with the MCS guidance, which states the following on page 16: *"Assessment position means a position one metre external to the centre point of any door or window to a habitable room of a neighbouring property as measured perpendicular to the plane of the door or window"*. The first floor window was used in the assessment, as this is likely to be less screened from the ASHP sound than a ground floor window. For reference, the plan below shows how this has been measured.

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The number of the reflective surfaces

We believe this comment refers to the directivity guidance on page 20 of the MCS, and specifically a note in this section which reads as follows: *“an air source heat pump with more than three reflective surfaces (for example those within small lightwells) will not meet the MCS planning standards.”*

The MCS planning standards use established but simplified acoustic principles, and are intended to enable non-specialists to undertake relatively precise noise calculations without needing to fully understand the underlying principles. For instance, the directivity guidance referenced in this comment is based on a straightforward method of acoustic directivity that does not take account of the dimensions of potential reflectors or their positioning relative to the sound source.

As the note in question is necessarily simplified, and therefore uses an example to clarify the types of situations where the presence of more than three reflective surfaces might not be appropriate. The example given (air source heat pumps installed in small lightwells) is physically very different from the installation at 41 Learmonth Place. A small lightwell typically causes a reverberant sound field whereby sound is reflected between and amongst different surfaces, and causing higher sound levels as the sound does not disperse as readily. This is not the case for the installation at 41 Learmonth Place.

Calculations are presented in the WSP memo, based on the angles for sound dispersion from the ASHP, to provide a more precise estimate of the directivity of sound from the ASHP. The results of these calculations indicate a Q (directivity) value of 4.007, which is equivalent to the quarter-spherical radiation shown on page 20 of the MCS.

This analysis indicates that the installation is akin to there being two reflective surfaces, as the flank walls of the alcove have a negligible effect on sound dispersion.

We trust that the above provides adequate clarification in response to the comments raised. If you do have any questions or comments, please do not hesitate to get in touch.

Kind regards



Robert Marriner

Associate Director, Acoustics
BA MSc MIOA

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Confidential

This message, including any document or file attached, is intended only for the addressee and may contain privileged and/or confidential information. Any other person is strictly prohibited from reading, using, disclosing or copying this message. If you have received this message in error, please notify the sender and delete the message. Thank you. WSP UK Limited, a limited company registered in England & Wales with registered number 01383511. Registered office: WSP House, 70 Chancery Lane, London, WC2A 1AF.



Appendix D

Sunshine Design and Planning email dated 13 May 2022.



Mary Murray

From: Mary Murray
Sent: 13 May 2022 16:56
To: Kirsten Morsley
Cc: Jane Downie
Subject: FW: 21/02318/FULL - Air Source Heat Pump - 41 Learmonth Place, St Andrews
Attachments: ufm2_Letter_-_Officer_Letter_Template 41 Learmonth Place St Andrews PDF.pdf

Dear Kirsten,

Thank you for your letter dated 6th May 2022. I confess you have confused me somewhat. You suggest that the Applicant has three options, the first of which reads as follows:

- 1. Have the ASHP installation re-assessed by a MCS certified installer. If we receive confirmation from a certified MCS installer that the installation complies with the MCS installation standards **we could progress the application favourably.***

On the 8th of February 2022, I sent you an email from WSP providing you with an "Air Source Heat Pump Calculation" which follows the same format as that set down in the MCS Planning Standard Guidance for Air Source Heat Pumps. In the covering memo submitted with that calculation, Robert Marriner of WSP explained that Note 3 on page 20 of the MCS Planning Standards is a **simplified** model for directivity which does not take account of the fact that each reflecting surface would need to be large enough in comparison to the source and wavelength of sound in order to be an effective reflector. Robert explains in his memo that the small walls to the side of the heat pump installed at 41 Learmonth Place would be relatively ineffective reflectors and would therefore have only a very small effect on the directivity of the unit.

Robert then goes on to add that the note at the bottom of page 20 of the MCS Planning Standards which claims that; *"an air source heat pump with more than three reflective surfaces (for example those within small lightwells) will not meet the MCS planning standards"* is based on the acoustical theory that applies to situations where there are more than three reflective surfaces which are **large** compared to the sound source and wavelength and that this is not the case for the heat pump installed at 41 Learmonth Place. He then provides a precise calculation of the Q factor for the heat pump installed at 41 Learmonth Place based on site specific measurements. Completing the MCS Calculation Procedure using this Q factor, Robert demonstrates that the heat pump installed at 41 Learmonth Place results in a figure of 40.3 dB(A) which, when rounded-up as noted in the MCS guidance results in a final figure of 41 dB(A) which complies with the permitted development limit (42dB(A)).

Are you seriously saying that you would accept a calculation which contains an estimated factor for directivity 'Q' which could be completed by a Plumber who is MCS Certified but who has limited knowledge of acoustic matters, but you will not accept a calculation prepared by a qualified Acoustic Engineer who has carried out exactly the same calculation using a precise factor for directivity based on measurements taken at this site? If so, then your position is simply untenable.

The Applicant stands by the calculation submitted to you by Robert Marriner of WSP because it represents a site-specific appraisal of the installation at 41 Learmonth Place which is carried out to a greater degree of accuracy than that which any MCS Certified Installer could provide you with. I have checked this with an MCS Certified Installer who advises that the software programmes used to conduct these calculations does not allow them to use precise, site measured 'Q' factors. It only allows them to use factors of either 2, 4 or 8 and is therefore limited in its accuracy.

As far as the Applicant is concerned, she has provided you with a more robust and accurate calculation than any normal, MCS Certified Installer could provide and has effectively complied with option 1 in your letter dated 6th May 2022.

Regards,

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
Mob: 07917 890715 Email: mary@sunshinedesignandplanning.co.uk



Appendix E

WSP email dated 19 December 2022.



Mary Murray

From: Marriner, Robert <robert.marriner@wsp.com>
Sent: 19 December 2022 10:03
To: Mary Murray
Cc: Jane Downie; James; Maureen Penman
Subject: RE: Air Source Heat Pump - 41 Learmonth Place, St Andrews

Good afternoon Mary

Further to our recent conversation, please find below a short clarification regarding the sound levels predicted in our memo of 6 April 2022, with reference to the planning condition criterion of NR 25 in bedrooms.

We understand that planning approval 19/02448/FULL for the air source heat pump (ASHP) in question includes the following noise-related planning condition:

"The total noise from all plant, machinery or equipment shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation..."

For the avoidance of doubt, day-time shall be 0700-2300hrs and night-time shall be 2300-0700hrs."

Our previous noise calculations (presented in memo dated 6 April 2022) predicted a sound pressure level due to the operation of the ASHP of 29 dBA at the façade of 39 Learmonth Place, based on the MCS calculation method and the ASHP manufacturer's published noise data.

There is no direct relationship between dBA and NR units, but section 7.4 of BS 8233:2014 (*Guidance on sound insulation and noise reduction for buildings*) states that the following approximate relationship applies in the absence of strong low frequency noise:

$NR \approx dBA - 6$

Annex G of BS 8233:2014 discusses the sound insulation available from a typical dwelling façade, and states that *"if partially open windows were relied upon for background ventilation, the insulation would be reduced to approximately 15 dB"*.

To clarify, based on the previous work and the technical guidance above, the equivalent indoor NR level is likely to be as follows:

Calculation step	Sound level
Sound level predicted outside 39 Learmonth Place	29 dBA
Calculate indoor sound level (-15 dB)	14 dBA
Conversion to NR level (-6 dB)	NR 8

The predicted indoor NR level is 17 dB below the night-time limit stipulated in the planning condition.

Kind regards



Robert Marriner
 Associate Director, Acoustics
 BA MSc MIOA

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 M +44 (0)7909 119 540

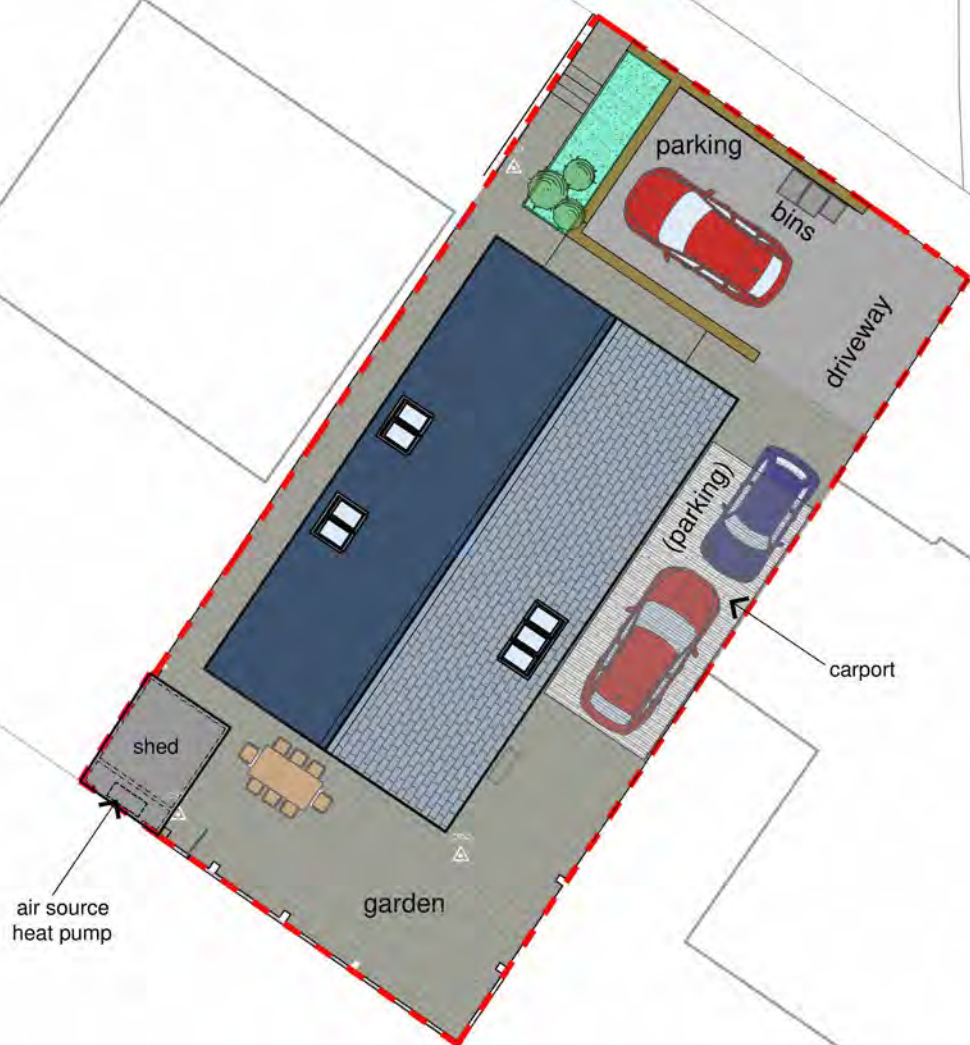


Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
 Mob: 07917 890715 Email: mary@sunshinedesignandplanning.co.uk



Learmonth Place
 (Speed Limit 30mph)
 Asphalt



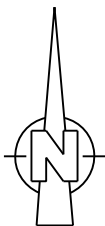
**41 Learmonth Place,
 St Andrews.**
 Site layout plan
 1:200 scale

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
 Tel.: 01592 630241 Mob.: 07917 890 715 Email: mary@sunshinedesignandplanning.co.uk

revision:	details:	date:
--	----	--/--

Client: Mrs M Penman	date: Jul 2021	dwg. size: A4
Project: 41 Learmonth Place, St Andrews, Fife	drawn by: <i>MM</i>	checked: <i>MM</i>
Drawing Title: Site layout plan	Job No.:	
Scale: 1:200		P1/19/02
	Dwg. No.:	L(PL)001



41 Learmonth Place, St Andrews.

Site analysis plan 1:200 scale

Note: approximate linear dimensions shown to domestic properties at 39 and 43 Learmonth Place for approved and installed locations of heat pump

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
 Tel.: 01592 630241 Mob.: 07917 890 715 Email: mary@sunshinedesignandplanning.co.uk

revision:	details:	date:
--	----	--/--

Client: Mrs M Penman	date: Jul 2021	dwg. size: A4
Project: 41 Learmonth Place, St Andrews, Fife	drawn by: <i>MM</i>	checked: <i>MM</i>
Drawing Title: Site analysis plan	Job No.:	
Scale: 1:200	Dwg. No.:	rev. 04:
	L(PL)002	104

Re-location of Air Source Heat Pump **SUPPORTING STATEMENT**

41 Learmonth Place, St Andrews, Fife, KY16 8XF

CONTENTS

1.0	Background Information	page 1
2.0	Site Details	page 2
3.0	Planning Application and Justification	page 3 - 4
4.0	Conclusion	page 5

Supporting Statement prepared by:

Mary Murray

Sunshine Design and Planning, Wester Balbeggie Farm, Kirkcaldy, KY1 3NS

19 July 2021

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS

Tel.: 01592 630241 Mob: 07917 890 715 Email: mary@sunshinedesignandplanning.co.uk



1.0 Background Information

- 1.01 Project Name: 41 Learmonth Place.
- 1.02 Applicant: Mrs M Penman.
- 1.03 Architect: Sunshine Design and Planning.
- 1.04 Project: Replace garden shed and locate air source heat pump to rear of shed.



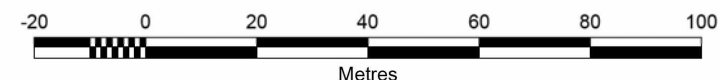
Photo 1.0: 41 Learmonth Place, St Andrews (June 2021).

41 LEARMONTH PLACE

St Andrews, Fife, KY16 8XF

2.0 Site Details.....

- 2.01 Location: 41 Learmonth Place, St Andrews, Fife, KY16 8XF.
- 2.02 Description: Residential dwelling with parking to front and side and garden area to rear of property.
- 2.03 History: A house was first erected at 41 Learmonth Place sometime around 1971. Inherited by the daughter of the original owners in 2019, the house was demolished and re-built to modern day standards of construction and energy efficiency in 2020.



41 Learmonth Place, St Andrews.

Site location plan
not to scale

OS License No.: 100057546
OS License Date: 19 July 2021



Sunshine Design and Planning
 Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS
 Tel: 01592 630241 Mob: 07917 890 715 Email: mary@sunshinedesignandplanning.co.uk

3.0 Planning Application and Justification.....

3.01 Planning History:

3.01.01 The erection of a replacement house at 41 Learmonth Place was approved under planning consent reference number 19/02448/FULL on 1st November 2019. Work to erect the new house commenced in earnest in 2020 and is currently nearing completion.

3.01.02 During construction on site, the decision was made to re-position the air source heat pump approved under the above-noted planning application from the south-east facing elevation of the proposed new house to the south-west most corner of the site, behind a garden shed built to replace the old shed which previously occupied that part of the garden.



Photo 2.0: 41 Learmonth Place – original house and garden shed (2019).



Photo 3.0: 41 Learmonth Place – new garden shed and heat pump (2021).

3.01.03 As the new position of the heat pump is less than 1m from the rear and side boundaries of the property, a fresh planning application has now been submitted for approval.

3.02 Re-location: The new location for the heat pump is considered to be a better position than that originally approved for the following reasons.

1. Amenity - Noise: the Applicant considers this position preferable as it is some 3.4m further away from the house at 39 Learmonth Place than the original heat pump position was from the house at 43 Learmonth Place (ref. application drawing number L(PL)002). The new position faces away from both neighbouring properties whereas the original location faced directly towards the house at 43 Learmonth Place. Also, it is believed that dense masonry to the rear and sides of the new heat pump, coupled with a roof above, will go some way to absorb and reflect noise away from these neighbouring properties.
2. Amenity - Parking: the new location of the heat pump ensures there is sufficient space to the south-east side of the house to park 2no. vehicles and, with additional parking created to the front, three cars are now able to park on site. Consequently, there will be less pressure for on street parking at this location.

3.03 Justification:

3.03.01 The proposed new position of the air source heat pump is justified on amenity grounds for the reasons cited under item 3.02 above. In short, the position of the heat pump as installed, although closer to the property at 39 Learmonth Place than originally proposed, is more than 3m further away from it than the approved position of the heat pump was from the house at 43 Learmonth Place. Additionally, the direction of the heat pump and the surrounding structure will mitigate noise emitted from it.

4.0 Conclusion

4.01 Summary:

4.01.01 The application to which this statement refers has been submitted as a result of changes made during the construction of the new house at 41 Learmonth Place, St Andrews.

4.02 Conclusion:

4.02.01 With reference to the development granted consent under planning application reference number 19/02448/FULL, the Applicant considers the changes for which consent is currently sought are unquestionably minor and, given that the minimum distance from the proposed air source heat pump to the closest neighbouring property has increased from 5.4m to 8.8m, the change in heat pump location effectively constitutes an improvement upon the previously approved application. As such, the Applicant seeks approval of the corresponding planning application submitted to Fife Council.

Proposal Details

Proposal Name	100447142
Proposal Description	Application for re-location of previously approved air source heat pump.
Address	41 LEARMONTH PLACE, ST ANDREWS, KY16 8XF
Local Authority	Fife Council
Application Online Reference	100447142-006

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
Drawing L-PL-001	Attached	A4
Drawing L-PL-002	Attached	A4
ASHP - planning application statement	Attached	A4
41 Learmonth Place - Appeal Statement	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-006.xml	Attached	A0

Agenda Item 5(2)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

Planning Decision Notice

Report of Handling

Sunshine Design and Planning
Mary Murray
Wester Balbeggie Farm
Balbeggie Avenue
Kirkcaldy
Scotland
KY1 3NS

Planning Services

Kirsten Morsley

development.central@fife.gov.uk

Your Ref:

Our Ref: 21/02318/FULL

Date 3rd October 2022

Dear Sir/Madam

Application No: 21/02318/FULL
Proposal: Installation of air source heat pump (amendment to 19/02448/FULL)
Address: 41 Learmonth Place St Andrews Fife KY16 8XF

Please find enclosed a copy of Fife Council's decision notice indicating refusal of your application. Reasons for this decision are given, and the accompanying notes explain how to begin the appeal or local review procedure should you wish to follow that course.

Should you require clarification of any matters in connection with this decision please get in touch with me.

Yours faithfully,

Kirsten Morsley, Planning Assistant, Development Management

Enc



DECISION NOTICE FULL PLANNING PERMISSION

Fife Council, in exercise of its powers under the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 **REFUSES PLANNING PERMISSION** for the particulars specified below

Application No: 21/02318/FULL
Proposal: Installation of air source heat pump (amendment to 19/02448/FULL)
Address: 41 Learmonth Place St Andrews Fife KY16 8XF

The plans and any other submissions which form part of this Decision notice are as shown as 'Refused' for application reference 21/02318/FULL on Fife Council's Planning Applications Online

REFUSE FOR THE FOLLOWING REASON(S):

1. In the interests of residential amenity and proper planning; the Applicant has failed to submit to the satisfaction of this Council as Planning Authority, a sufficiency of appropriate information to properly demonstrate and inform this Council as Planning Authority that the Air Source Heat Pump (ASHP), as adapted, has been properly and correctly installed within the application site together with the submission of on-site noise assessments all in compliance with MSC Planning Standards and in conformity with condition 2 annexed to the Decision Notice dated 19th November 2019 in relation to Planning Permission 19/02448/FULL. The application proposal is therefore considered to be contrary to Scottish Government Planning Advice Note 1/2011 - Planning and Noise; Policies 1, 10 and 11 of the Adopted FIFEplan 2017; and the Low Carbon Fife Supplementary Planning Guidance (adopted 2019) and is recommended for refusal.

And

That the appropriate enforcement action is taken to ensure that the use of the ASHP ceases on or before 3 months from the date of this decision notice until a satisfactory resolution can be reached.

Dated: 3rd October 2022

Alastair Hamilton

For Head of Planning Services

PLANS

The plan(s) and other submissions which form part of this decision are: -

Reference	Plan Description
01	Location Plan
02	Proposed Site Plan
03	Site Survey
04	Supporting Statement
05	Details
06	Photographs
07	Noise Report

Dated:3rd October 2022

Alastair Hamilton

For Head of Planning Services

IMPORTANT NOTES ABOUT THIS DECISION

LOCAL REVIEW

If you are not satisfied with this decision by the Council you may request a review of the decision by the Council's Local Review Body. The local review should be made in accordance with section 43A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 by notice sent within three months of the date specified on this notice. Please note that this date cannot be extended. The appropriate forms can be found following the links at www.fife.gov.uk/planning. Completed forms should be sent to:

Fife Council, Committee Services, Corporate Services Directorate

Fife House

North Street

Glenrothes, Fife

KY7 5LT

or emailed to local.review@fife.gov.uk

LAND NOT CAPABLE OF BENEFICIAL USE

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Minister, 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, he/she may serve on the Planning Authority a purchase notice requiring the purchase of his/her interest in the land in accordance with Part V Town and Country Planning (Scotland) Act, 1997.

APPLICATION DETAILS

ADDRESS	41 Learmonth Place, St Andrews, Fife		
PROPOSAL	Installation of air source heat pump (amendment to 19/02448/FULL)		
DATE VALID	19/07/2021	PUBLICITY EXPIRY DATE	30/08/2021
CASE OFFICER	Kirsten Morsley	SITE VISIT	29/10/2021
WARD	St. Andrews	REPORT DATE	01/09/2022

ASSESSMENT

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.0 BACKGROUND

1.1 This application relates to a recently installed air source heat pump (ASHP) located within the curtilage of a replacement dwellinghouse constructed between November 2019 - 2022 at 41 Learmonth Place, St. Andrews. The replacement dwellinghouse relates to planning approval 19/02448/FULL and is situated within a modern well-established residential area of St. Andrews. There are no historic designations associated with the dwellinghouse, or within the surrounding area. The dwellinghouse is enclosed by Learmonth Place to the north-east, existing housing to the south-east and north-west and by parkland to the south-west.

1.2 This planning application, which was validated by Fife Council on 19 May 2021, seeks retrospective planning approval for the ASHP installation. The ASHP installation was completed on 22 March 2021. Fife Council's Planning Enforcement Team received a noise complaint regarding the ASHP on 7 May 2021. This complaint was received from the neighbour who resides north-west of the application site at 39 Learmonth Place. The neighbour's objections are summarised in paragraph 2.2 of this report.

1.3 The ASHP is also the subject of a separate Public Nuisance Investigation with Environmental Health (Public Protection). The Environmental Health investigation is still on-going.

1.4 Planning approval 19/02448/FULL shows that the ASHP was originally to be placed on the new dwelling's south-east elevation and was to be a Mitsubishi Heat Pump. Fife Council's Environmental Health (Public Protection) team also advised that noise levels associated with the proposed ASHP should comply with the following noise condition,

"The total noise from all plant, machinery or equipment shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation."

AND

"For the avoidance of doubt, day-time shall be 0700-2300hrs and night-time shall be 2300-0700hrs."

And the 19/02448/FULL approval was conditioned on this basis.

However, and without any prior consent from Fife Council, the ASHP was installed in a different location, within an outbuilding located within the south-western corner of the rear garden and the specification model of the ASHP was also changed. Furthermore, and despite the receipt of a noise complaint associated with the ASHP, the applicant had produced no evidence to satisfactorily discharge the 19/02448/FULL noise condition.

1.5 The outbuilding is constructed from concrete block and has a flat roof and replaces an earlier shed. The ASHP is located at the south-western end of the outbuilding and is partially enclosed by two side walls and a roof and can be seen through a metal grill from the park. The outbuilding also aligns with and sits close to the objector's south-east rear garden boundary fence. In the applicant's supporting statement the agent expresses that they consider this new position to be better than the original proposed location, which had the ASHP situated closer to and facing another property, 43 Learmonth Place. In this new location, the agent advises that the ASHP is set 8.8 metres from 39 Learmonth Place and the unit faces away from 39 Learmonth Place. The statement also expresses the view that the dense masonry walls to the rear and sides of the ASHP would 'in some way' absorb and reflect noise away from the neighbouring properties.

1.6 The applicant has cited that they were unaware that planning permission would be required to relocate the ASHP and were of the view that the installation was 'permitted development'.

1.7 An air source heat pump is a form of microgeneration. The meaning of Micro-generation is given in section 82(6) of the Energy Act 2004 and relates to equipment with an output of up to 50 kilowatts of electricity or 45 kilowatts of thermal (heat) energy. ASHP's come in all shapes and sizes, and because of this the sound and volume of noise they make varies between models and manufacturers. Under Class 6H of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended (which applies to all development begun on or after 24 March 2016), the ASHP as installed does satisfy the following criteria for 'permitted development',

- the number of ASHP's within the curtilage - there is only one ASHP within the site curtilage,

- its location and height - the ASHP is positioned at the rear of the property and does not front a road and the ASHP and its enclosure do not measure more than 3.0 metres high,
- the ASHP is not located within a Conservation Area, a World Heritage Site and is not located within the curtilage of a listed building.

Furthermore, unlike in England, there is no requirement in Scotland under The General Permitted Development (Scotland) Order 1992 as amended, for an ASHP to be set back at least 1.0 metre from a garden boundary.

However what should be considered is whether the ASHP installation complies with Class 6H clause (3) (c) of the Town and Country Planning (General Permitted Development (Scotland) Order. This clause stipulates that the ASHP must comply with MCS Planning Standards or equivalent standards. (MCS stands for Microgeneration Certification Scheme and certifies, quality assures and provides consumer protection and neighbour protection for microgeneration installations and installers).

1.8 The agent provided evidence which indicated that the ASHP was initially installed by a Certified MCS Installer. However, in response to the noise complaint, the applicant had the installation adapted in an attempt to abate the said noise. This adaptation was carried out before the planning application for 'retrospective consent' for the ASHP was submitted to Fife Council. The adaptation of the ASHP is described in paragraph 2.4.6 below. The applicant has not confirmed who carried out the adaptation and the ASHP installation 'as adapted' has not been thereafter re-checked and signed off by a MCS Certified Installer.

1.9 Whilst the applicant did not engage with the services of another MCS Certified Installer, the applicant did commission noise consultants WSP Acoustics to review the ASHP installation and Fife Council received their Noise Report on 8 February 2022. The agent has advised that the applicant is of the view that the WSP report should provide 'the assurance necessary to demonstrate that the noise emitted from the heat pump in its current position is well within acceptable limits.' The contents of the WSP Noise Report is discussed in more detail under the Residential Amenity section, paragraph, 2.4.10.

1.10 Fife Council's Environmental Health have advised that noise levels for this revised ASHP installation should still comply with the original 19/02448/FULL noise condition as noted above under paragraph 1.4. Whilst Fife Council's Legal Services have confirmed that conditions which restrict 'Permitted Development Rights' should only be imposed in exceptional circumstances and that it would be considered unreasonable to 'restrict permitted development rights' unless there is clear evidence that conditions,

- (i) address serious adverse impacts on the environment
- (ii) that there are no other forms of control available
- (iii) that the conditions serve a clear Planning Purpose

They have also stipulated that the Permitted Development Order cannot permit development contrary to any condition imposed by the grant of a planning permission.

1.11 As the applicant committed a breach under the 19/02448/FULL permission by changing the ASHP specification and position of the ASHP to what was originally approved and given that a noise complaint was received and no supporting documentation was provided thereafter to either satisfactorily address the Noise Condition of the former consent or demonstrate that the installation as adapted is fully compliant with MCS Planning Standards, it is the view that the

ASHP cannot be considered to be 'permitted development,' and as such planning permission is required.

1.12 Relevant planning history associated with the dwellinghouse is as follows,

- 19/02448/FULL - Erection of dwellinghouse with associated infrastructure (demolition of existing dwellinghouse) - permitted with conditions.

1.13 The case officer and the Environmental Health Officer visited the site on 29 October 2021. Given the nature of the application and the complaint received it was considered appropriate that the Environmental Health Officer attend the site visit with the case officer. Photographs of the installation were taken and have been placed in the file.

2.0 PLANNING ASSESSMENT

2.1 The issues to be assessed against the Development Plan and other guidance and material considerations are as follows:

- Objections Received
- Low Carbon
- Residential Amenity
- Design and Visual Impact

2.2 Objections Received

2.2.1 The neighbour residing at 39 Learmonth Place has objected to the ASHP installation and has raised the following residential amenity concerns,

- The ASHP installation does not comply with all the set criteria required for 'permitted development.'
- The location of the ASHP is considered unacceptable. Noise and vibration emitted from the installation is disrupting sleep, is affecting her work, and is having a serious impact on her mental and physical health. Fife Council has also received letters from the objector's GP which highlight these issues.
- The noise is problematic both day and night and that they take sleeping pills, use ear plugs, play white noise. They state that they have also tried sleeping in another bedroom located at the other side of the house but are still woken up between 4.00 -5.30 am by noise from the device nearly every morning, and that both the bedroom and the office at the back of the house are affected.
- The installation is considered to be in a dangerous location and is a hazard to children, as it is visible and accessible from the public footpath in the park.
- There has been a failure to comply with the original planning consent, both in terms of the ASHP location and by not including solar panels this, the objector believes, has exacerbated the noise problem.
- The roof of the outbuilding has no gutter and slopes towards the objector's boundary fence which results in rainwater falling directly onto their boundary fence.
- As the enclosure around the ASHP has more than 3 reflective surfaces, the ASHP installation does not comply with MCS planning standards.
- The objector has asked what other ancillary equipment is within the outbuilding and states that the outbuilding itself is an odd design and amplifies the noise like a 'sound box'.

- The objector has asked why Fife Council have never asked the applicant to provide assessments from the Installation Company and asks why Fife Council does not follow the MCS Noise Assessment Method.

2.2.2 The objector also submitted noise recordings of the ASHP taken from their personal mobile phone during November 2021 and December 2021. The objector has also commented that they do not think Fife Council has the right equipment to assess the problem properly, stating that the equipment only records frequency (Hz) and sound pressure (dBA) and not vibration amplitude and the equipment is also not capable of identifying the source of the vibration.

2.2.3 The ASHP does not comply fully with all the set criteria required for 'permitted development' and no information has been received from the applicant to date to demonstrate that the ASHP installation complies with the 19/02448/FULL noise condition. The impact in respect of safety and the installation's proximity and accessibility from the park is discussed under section 2.4 of this report. Whilst the applicant failed to comply with the original consent, they could have at any time applied for planning permission to re-locate the ASHP and change the specification, regardless of the original planning consent. However planning permission should have been sought prior to the ASHP's relocation and installation. A relocation and a new application will not guarantee planning approval, as all planning applications will be assessed in their own right and against all relevant planning material considerations. The issues raised regarding whether the ASHP is in compliance with MCS planning standards in respect of the number of reflective surfaces and concerns raised regarding the structure/design of the outbuilding are discussed under section 2.4 of this report. The site visit confirmed that the rest of the outbuilding is empty, that the outbuilding is intended for the storage of bicycles and gardening equipment, and that all other equipment associated with the ASHP is located within the dwellinghouse.

2.2.4 The objector has asked why Fife Council have never asked the applicant to provide assessments from the Installation Company and asks why Fife Council does not follow the MCS Noise Assessment Method.

2.2.5 Fife Council repeatedly requested that the applicant provide assessments from the Installation Company following the adaptation of the ASHP or that the installation be re-checked by another MCS Certified Installer. This approach was not adopted by the applicant, but instead the applicant commissioned WSP Acoustics to carry out a Noise Assessment on the ASHP based on the MCS 020 Planning Standards. Their Noise Report was received on 8 February 2022. The NR 25 and NR 30 measurements used by Environmental Health (as the original condition requested, see paragraph 1.4 above) are not figures expressed by the MCS 020 Planning Standards, which stipulate that an acceptable noise level should be equal to or less than 42 dB(a) for each assessment position that could be affected by noise from the ASHP. Fife Council's Environmental Services have always used the Noise Rating Curve NR as a standard way to measure and specify noise in buildings and occupied spaces and is a method for rating the acceptability of indoor environments for the purposes of hearing preservation, speech communication and annoyance, and is based on curves developed by Kosten and Van Os (1962). Both approaches are accepted industry standards for noise assessment.

2.2.6 The noise recordings submitted by the objector were forwarded onto Environmental Health. It was accepted that these noise recordings taken by the objector demonstrated that further investigations on the noise outputs from the ASHP were required. It is noted that the objector has criticised the methods and equipment used by Environmental Health and this is discussed in more detail under paragraphs 2.4.15 - 2.4.16 of this report.

2.3 Low Carbon

2.3.1 Scottish Planning Policy (2014) (SPP)(paragraphs 154, 155, 160 and 169), policy 11 of the Adopted FIFEplan (2017), Fife Council's Low Carbon Fife Supplementary Planning Guidance (2019) and Fife Council's Planning Customer Guidelines on Air Source Heat Pump Guidance - Planning Permission and Certificate of Lawfulness, apply to this application.

2.3.2 SPP states that Planning Authorities must support the transition to a low carbon economy and promote the use of sustainable energy generation which is in line with national objectives and targets. To achieve this, Planning Authorities should seek to reduce emissions and energy use in new buildings and where heat networks are not available SPP highlights that microgeneration and heat recovery technologies associated with individual properties should be encouraged. SPP further advises what considerations should take place and who should be consulted when assessing such proposals and this will largely vary depending upon the nature and scale of the development proposed.

2.3.3 FIFEplan policy 11 (Low Carbon) states that planning permission will only be granted where it has been demonstrated (where relevant) that a development proposal contributes to meeting Scotland's targets on reduced emissions and energy use and where it does not result in an unacceptable significant adverse impact on the community or on the environment. Policy 11 also states that renewable energy technologies will be assessed against a range of material planning considerations such as visual impact, residential amenity etc but that assessments must also weigh-up the considerations of consultees, applicants and third party responses and consider both the benefits and the potential negative impacts of such proposals before reaching a planning judgement.

2.3.4 Fife Council's Low Carbon Fife Supplementary Guidance (2019) notes that for small local applications, such as in this case which related to an ASHP associated with the erection of a single new dwellinghouse, applicants are required to provide information on the energy efficiency measures and energy generating technologies which shall be incorporated into their proposals and this includes submitting a completed Low Carbon Fife (sustainable buildings) checklist (Appendix B of the Supplementary Guidance).

2.3.5 Fife Council's Planning Customer Guidelines on Air Source Heat Pump Guidance - Planning Permission and Certificate of Lawfulness, highlights that only ASHP's which are associated with a domestic property may benefit from permitted development rights. All ASHP for non-domestic properties require planning permission. Should an applicant wish to install an ASHP under the criteria of 'permitted development' as set out in the Town and Country Planning (General Permitted Development (Scotland) Order 1992 as amended they are advised to submit an application for a Certificate of Lawfulness (Proposed). Applicants are also informed that a Building Warrant may also be required for an ASHP, irrespective of whether or not planning permission is needed. The Fife Council guidance on ASHP's is currently under review and is to be updated shortly.

2.3.6 The planning approval 19/02448/FULL for the replacement dwellinghouse included a completed Low Carbon Fife (sustainable buildings) checklist and the applicant confirmed amongst other measures the intention of incorporating an air source heat pump (ASHP) and solar PV panels into the proposed development to satisfy compliance with FIFEplan policy 11. As already noted, the ASHP specification was later changed and the unit was relocated to a

different part of the site and the solar PV panels were not installed. The installation of the solar panels however were not a mandatory requirement of the planning consent.

2.3.7 In light of the above, and in order to effectivity assess microgeneration installations against Fifeplan Policy 11 - Low Carbon, detailed supporting information should be submitted by the applicant or agent where required and where requested by Fife Council so that all impacts and effects of these installations can be effectively examined and robustly assessed against all other material planning considerations which in turn will inform the outcome of any planning recommendation. The relevant material considerations associated with this proposal are considered in further detail under sections 2.4 and 2.5 of this report.

2.4 Residential Amenity

2.4.1 National guidance PAN 1/2011- Planning and Noise, policies 1, 10, 11 of the Adopted FIFEplan (2017), Low Carbon Fife Supplementary Guidance (2019) and Fife Council's Planning Customer Guidelines on Daylight and Sunlight (2018) and Garden Ground (2018) apply to this application.

2.4.2 PAN 1/2011 establishes best practice and the planning considerations to be taken into account with regard to developments that may generate noise, or developments that may be subject to noise. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It identifies that ASHP can create noise and vibration and that noise assessments may be required to ensure that neighbours are not disturbed by them.

2.4.3 Policy 1 of the Adopted FIFEplan (2017) advise that a development proposal will be supported if it is set in a location where the proposed use is supported by the Local Development Plan, and proposals address their individual and cumulative impacts. Policy 10 advises that development is required to be implemented in a manner that ensures that existing uses and the quality of life of those in the immediate area are not adversely affected by factors such as, (but not limited to) noise, potential losses of privacy, sunlight, or daylight, overshadowing etc. Policy 11 promotes the use of low carbon energy schemes such as air source heat pumps where they will not result in any adverse impact on sensitive receptors and where they can be satisfactorily mitigated within the environment and cause minimal harm. Fife Council's Low Carbon Supplementary Planning Guidance confirms that low carbon schemes can affect the amenity of neighbouring properties in terms of noise when in use and must be judged on a case by case basis. For this reason developers are expected to evaluate their proposals to ensure that noise levels do not adversely affect neighbouring receptors. A special regard should be taken with the operational noise of ASHP which are on overnight, when the prevailing background noise is at its lowest to ensure that noise levels are at an acceptable level at existing receptors.

2.4.4 Fife Council's Planning Customer Guidelines on Daylight and Sunlight and Garden Ground expand on those policies highlighted above and outline in more detail what the design expectations in relation to residential amenity requirements should be.

2.4.5 The objector considers that the location of the ASHP is unsafe as the ASHP is visible from the park and is a hazard to children. Whilst the installation is visible from the park the ASHP is protected by a secure metal grill and is therefore is not considered to be unsafe. The objector has highlighted that the outbuilding has no gutter and the roof slopes towards her boundary fence which results in rainwater falling directly onto her boundary fence. As the outbuilding

complies with all the criteria required for 'permitted development' under Class 3A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, Fife Council planning cannot intervene and insist that a gutter be fitted. The outbuilding is a standard rectangular, flat roof outbuilding and is not considered to have an odd design and it does not overshadow the neighbour's garden and is compliant with Garden Ground Guidance in terms of site coverage. Issues however regarding that the outbuilding 'amplifies the noise like a 'sound box' ' are considered in further detail under paragraph 2.4.11 of this report.

2.4.6 When the un-authorized ASHP was first installed it was enclosed by the outbuilding's roof above, its south-east wall to the side, and a metal grill in front. Following the noise complaint the applicant, in an attempt to abate the noise issue, had an additional side wall added to enclose the south-west side of the ASHP installation. This side wall aligned close to the objector's south-east rear boundary fence and was added before the planning application for retrospective planning consent was submitted. This is evidence by the photograph on page 3 of the agent's Supporting Statement and by the case officer's site photographs.

2.4.7 Fife Council's Low Carbon Supplementary Planning Guidance states that developers are expected to evaluate their proposals to ensure noise levels do not adversely affect neighbours. The agent was therefore advised by the case officer in September/October 2021 that the onus was on the applicant to demonstrate that the ASHP complied with the 19/02448/FULL noise condition and that the agent could engage the services of a suitably qualified noise consultant to undertake their own noise recordings if they so wished to determine whether the installation satisfied the 19/02448/FULL noise condition. The agent was also advised to, before commissioning a consultant, that they forward the consultant's full details and qualifications to the Environmental Health Officer so that their credentials and proposed methodology for the assessment could be agreed in advance and so that their qualifications and membership details could be checked to ensure competency and impartiality. Environmental Health also advised that the agent should contact the manufacturer/supplier of the ASHP for additional information given that the brochure details supplied did not contain sufficient information to determine whether the ASHP would comply with the 19/02448/FULL noise condition. The case officer also requested that full details be given on what current measures had been undertaken to reduce noise and vibration from the ASHP, e.g. had isolation anti-vibration mounts and/or a sound insulation hood been installed etc. The applicant did not take-up/respond with Fife Council to these requests/questions.

2.4.8 As a further attempt to abate the continued noise complaint the agent advised Fife Council on the 31 January 2022 that the applicant was prepared to fit acoustic tiles to the outbuilding so to absorb sound to the walls and ceiling. The case officer advised the agent that it was not for Fife Council to instruct or agree to the addition of acoustic tiles because if the ASHP had been incorrectly installed in the first place, or badly fitted, or that the later adaptation to the installation was causing greater issue in terms of noise, that such mitigation measures would not necessarily address the noise problem cited by the objector.

2.4.9 Following on from the above, and as no other supporting information had been submitted by the applicant to satisfy compliance with the 19/02448/FULL noise condition, the agent was advised on 2 February 2022 that the current installation should be re-checked for competency against the Micro-generation Certification Scheme by a MCS Certified Installer so that if there were issues with the current installation that the Certified Installer could advise on what additional measures/changes would be required to satisfy compliance with the MCS Planning Standards. The agent was advised to produce this information as soon as possible otherwise the

installation could be refused on grounds of inadequate supporting information/documentation and enforcement action could be taken.

2.4.10 WSP Acoustics were commissioned by the applicant to assess the installation and submitted their report on 8 February 2022. The agent in a separate email to WSP (not Fife Council), advised that the ASHP was on anti-vibration feet and was fitted with flexible hoses. WSP Acoustics assessed the ASHP installation against the MCS Planning Standards; MCS 020 issue 1.3 and have included their calculation within the report. The distance of the ASHP from the assessment position taken (i.e. the rear first floor bedroom window of 39 Learmonth Place closest to the application site boundary) is given as 9.0 metres. WSP Acoustics have stated that in their professional opinion the installation falls within the permitted development noise limits, giving an overall figure of 40.3 dBA which is lower than the 42.0 dB(A) permitted development threshold. In response to concerns raised by the objector that the calculation is inaccurate as the enclosure around the ASHP has more than 3 reflective surfaces, WSP Acoustics have discounted this issue stating that reflective surfaces would require to be very large compared to the source of the sound and the wavelength to act as effective reflectors.

2.4.11 The agent has advised that the Noise Report from WSP Acoustics follows the same format as that set down in the MCS Planning Standard Guidance for ASHP's, and states that the applicant stands by the calculation because, 'it represents a site-specific appraisal of the installation at 41 Learmonth Place' and has been carried out to a greater degree of accuracy than that which any MCS Certified Installer could provide'. Whilst this maybe the case, it is important to clarify that this Noise Assessment was carried out remotely as a desk-top exercise from information provided by the agent and from planning drawings accessed on-line. No site visit was carried out to review the whole installation, the existing ASHP installation was not re-checked for competency nor were any noise levels monitored on site by the Noise Consultant.

2.4.12 When the agent was asked why no site visit or on-site noise monitoring had taken place by the Noise Consultant the agent stated that the software programmes that are used to conduct these calculations do not allow for the use of precise site measured data, the calculations only allow for 'Q' factors of 2, 4 or 8 to be used and are therefore limited in their accuracy.

2.4.13 Fife Council's Environmental Health confirmed on 19 August 2021 that the planning submission did not provide sufficient detail to demonstrate that the installation complied with the 19/02448/FULL noise condition, and that additional information would be required before they could provide a fully informed consultation response.

2.4.14 Environmental Health had taken their own noise recordings in May 2021. A Norsonic Sound Level meter was used. It was located within a locked case and installed within the objector's house. The objector pressed a button to make the recordings. The recordings taken at that time indicated non-compliance with the 19/02448/FULL noise condition. Further recordings were taken in November 2021 and again in January 2022, however as some noise interference was picked up on these recordings Environmental Health confirmed that additional site visits would be required so that more data could be acquired. This was also so that the noise readings could be taken on site when the ASHP was operating and could be witnessed by a colleague to ensure a thorough and more detailed site investigation.

2.4.15 The objector enquired whether a frequency analysis, vibration and electromagnetic field impact had been carried out during Environmental Health's assessments and was advised that they were not. The equipment Environmental Health uses does not measure vibration or

electromagnetic field impact, but it was confirmed that frequency analysis could be measured on future site visits. The objector has questioned the suitability of the equipment used by Environmental Health and is of the view that as the ASHP device generates low and high frequency noises a proper frequency assessment, vibration and electro-magnetic field noise impact would be required. The objector also contends that the transformer causes a pulsating humming noise and is as problematic as the fan. Environmental Health have stated that the equipment they use to assess the noise impact is fit for purpose and that they just require more time to monitor the site. They have also confirmed that with regards to the electro-magnetic issue, the manufacturer will have a declaration of conformity as per the CE mark on the Heat Pump.

2.4.16 It was confirmed by Environmental Health that the applicant had agreed to assist in the assessment of ASHP on High Mode whilst Environmental Health Officers would attend the objector's property once again to monitor the noise impact. The objector questioned as to why further noise recordings were still required, given that the installation did not appear to comply with MCS planning standards and still continues to question the suitability of Fife Council equipment. The objector has also raised concerns that the ASHP may have been switched off or turned down by the applicant when the earlier site investigations were underway and that this may happen again. By May 2022 the objector advised that she intended to take her complaint to the Scottish Public Services Ombudsman (SPSO), as she believes that Fife Council's approach to her case has been 'discriminatory and has been entirely wrong.'

2.4.17 Environmental Health are of the view that this breakdown in communication with the objector has stemmed from the objector's mis-understanding on how the MCS Planning Standards are understood and implemented. The objector was also advised early on in the planning process (23 August 2021) that un-authorized development from a planning perspective is not considered illegal/unacceptable unless the said development has been properly assessed through the submission of a planning application and that it is only through this process that an informed judgement can take place and a decision can be issued.

2.4.18 As there is still an on-going Public Nuisance Investigation with Environmental Health concerning the ASHP, Environmental Health have confirmed that it would be inappropriate at this stage to release information relating to this nuisance investigation at this point. Environmental Health have however commented that WSP's Report includes no frequency data and the requested information to demonstrate that the noise levels from the ASHP would be compliant with the 19/02448/FULL noise condition have still not been provided by the applicant. They have also confirmed that whilst the agent has provided an acoustic report by WSP Acoustics it is their understanding that this report has been issued to demonstrate that the ASHP had been installed in accordance with MCS planning standards and as such this would be for the Planning Department to determine if the installation of the ASHP adheres to these planning standards and not Environmental Health. Environmental Health's role, they stipulate, is to investigate the noise issue in terms of Nuisance.

2.4.19 It is to be noted that the on-going Public Nuisance Investigation with Environmental Health should not inform the planning recommendation given that the planning assessment shall be predicted upon those planning considerations as set out in the Development Plan and the decision should be informed by the Development Plan policies and by those other material planning considerations such as planning merit, other comments/feedback received from all parties as well as the type, scope and detail of all information provided by the applicant.

2.4.20 Fife Council promotes the use of Low Carbon Energy Schemes where they can be satisfied that they will not affect the amenity of neighbouring properties to any significant degree. Fife Council also expects developers to evaluate their proposals to ensure, as in the case of ASHP's, that noise levels do not adversely affect neighbouring properties. Whilst it is to be commended that the applicant has chosen to use microgeneration technology to reduce emissions and energy use, having reviewed and considered the planning submission against FIFEplan policies 1 (Development Principles), 10 (Residential Amenity) and 11 (Low Carbon), and having reviewed the supporting documentation submitted by the applicant, the comments received by Environmental Health and the concerns raised by the objector it is considered that insufficient supporting documentation has been provided by the applicant to demonstrate that the ASHP as adapted complies with either the MCS planning standards or with the 19/02448/FULL noise condition. The applicant has not arranged for on-site noise monitoring to take place, the ASHP installation as adapted has not been re-checked by a Certified MCS Installer on-site despite the noise concerns raised. The WSP Noise Report and the remote desktop calculation makes the assumption that the ASHP had been correctly installed. Each site has its own nuances and given the nature and extent of the complaint the ASHP should have been re-checked for errors, and an extended site survey and noise monitoring should have taken place so that any particular features of the installation or site which may contribute to the noise concerns could have been assessed and considered at source. All of these assessments are the responsibility of the applicant and not Fife Council, and as such it is the view that the application submissions have failed to satisfactorily address Residential Amenity concerns in terms of Noise.

2.4.21 In light of the above, it is recommended that the application is recommended for refusal and that the ASHP be switched off until such time a satisfactory resolution can be reached. The applicant has advised that the ASHP is the only form of heating and hot water for the dwellinghouse. In lieu of this, it is recommended that the applicant should be given a discretionary lead-in time of 3 months before use of the current ASHP shall cease, so to enable an alternative, albeit probably temporary, energy supply can be arranged in the interim.

2.5 Design and Visual Impact

2.5.1 Policies 1, and 10 of The Adopted Fifeplan (2017), and Making Fife's Places - Supplementary Guidance (2018) are relevant to this application.

2.5.2 FIFEplan Policies 1 (Development Principles), and 10 (Amenity), require all new development to be placed where the proposed use is supported by the Local Development Plan and for it to be well located and designed to ensure it makes a positive contribution and protects the overall landscape and environmental quality of the surrounding area. Making Fife's Places Supplementary Guidance sets out Fife Council's expectation in the role of good design. A development which is appropriately located and respects/reflects the pattern of the local built context in terms of building height, scale, built form and which enhances the character of an existing building and area by using appropriate materials and details will be supported.

2.5.3 The objector states that the outbuilding is of an odd design. The outbuilding in terms of its location, height, shape, size and material finish is not considered odd looking. Furthermore, the outbuilding complies with all 'permitted development' criteria and therefore does not require planning consent, only the ASHP requires planning consent. The ASHP is fairly small and is located at the south-western end of the outbuilding within the rear garden. The ASHP is screened on two sides and by the outbuilding's roof and is only visible from the parkland. There are no historic designations associated with the dwellinghouse or with the surrounding area. As

such the ASHP is considered compliant with the relevant policies relating to design and visual impact.

CONSULTATION RESPONSES

Environmental Health (Public Protection)

The requested information to demonstrate that noise levels from the ASHP would be compliant with the 19/02448/FULL noise condition have still not been provided by the applicant. As there is still an on-going Public Nuisance Investigation it would be inappropriate at this stage to release information relating to the nuisance investigation.

REPRESENTATIONS

One letter of objection has been received. The issues raised are summarised as follows,

- The ASHP installation does not comply with all the set criteria required for 'permitted development.'
- Noise and vibration emitted from the ASHP is problematic both day and night and is having a serious impact on the objector's mental and physical health and this has been confirmed by their GP.
- They have also tried sleeping in another bedroom located at the other side of the house but are still woken up between 4.00 -5.30 am by noise from the device nearly every morning, and that both the bedroom and the office at the back of the house are affected.
- The installation location is visible from the park, is dangerous and is a hazard to children.
- There has been a failure to comply with the original planning consent, and by not including solar panels this has exacerbated the noise problem.
- The roof of the outbuilding has no gutter and slopes towards the objector's boundary fence which results in rainwater falling directly onto their boundary fence.
- The ASHP is enclosed by more than 3 reflective surfaces and the noise calculation produced does not comply with MCS planning standards.
- The objector has asked what other ancillary equipment is within the outbuilding and states that the outbuilding itself is an odd design and amplifies the noise like a 'sound box'.
- The objector has asked why Fife Council have never asked the applicant to provide assessments from the Installation Company and asks why Fife Council does not follow the MCS Noise Assessment Method.

All these issues have been covered within the main body of the report.

CONCLUSION

There has been insufficient supporting documentation provided by the applicant in the form of re-checking the current ASHP installation and carrying-out on-site noise assessments to demonstrate that the ASHP as adapted both complies with MCS Planning Standards and complies with the 19/02448/FULL noise condition. As such the ASHP cannot be considered compliant with PAN 1/2011- Planning and Noise, or compliant with the Development Plan and all its related guidance in terms of Residential Amenity in respect of Noise.

DETAILED RECOMMENDATION

The application be refused for the following reason(s)

1. In the interests of residential amenity and proper planning; the Applicant has failed to submit to the satisfaction of this Council as Planning Authority, a sufficiency of appropriate information to properly demonstrate and inform this Council as Planning Authority that the Air Source Heat Pump (ASHP), as adapted, has been properly and correctly installed within the application site together with the submission of on-site noise assessments all in compliance with MSC Planning Standards and in conformity with condition 2 annexed to the Decision Notice dated 19th November 2019 in relation to Planning Permission 19/02448/FULL. The application proposal is therefore considered to be contrary to Scottish Government Planning Advice Note 1/2011 - Planning and Noise; Policies 1, 10 and 11 of the Adopted FIFEplan 2017; and the Low Carbon Fife Supplementary Planning Guidance (adopted 2019) and is recommended for refusal.

And

That the appropriate enforcement action is taken to ensure that the use of the ASHP ceases on or before 3 months from the date of this decision notice until a satisfactory resolution can be reached.

and

That the appropriate enforcement action be taken with respect to the unauthorised activity

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

National Guidance

Scottish Planning Policy (2014)
PAN 1/2011- Planning and Noise

The Development Plan

Adopted FIFEplan (2017)
Low Carbon Fife Supplementary Planning Guidance (2019)
Making Fife's Places - Supplementary Guidance (2018)

Other Guidance

Fife Council's Planning Customer Guidelines on Daylight and Sunlight (2018)
Fife Council's Planning Customer Guidelines on Garden Ground (2018)
Fife Council's Planning Customer Guidelines on Air Source Heat Pump Guidance - Planning Permission and Certificate of Lawfulness
The General Permitted Development (Scotland) Order 1992 as amended

Agenda Item 5(3)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

Representation(s)

From: Parmis Mozafa [REDACTED]

Sent: 23 August 2021 11:37

To: Kirsten Morsley <Kirsten.Morsley@fife.gov.uk>

Subject: RE: Re. 21/02318/FULL - 41 Learmonth Place St. Andrews

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Kirsten (if I may),

Thank you very much for your email and for explaining the process.

I am preparing a detailed list of my comments about the retrospective planning application for submission to fife council, and I really appreciate if you could add related points in my correspondence with Fife council to the application.

I just want to use this opportunity and state that I have never ever had any problem with any person or institution through the past 18 years that I lived in different parts of the UK. I consider myself a good citizen and I have always avoided disputes, but this case for me is a matter of my mental and physical health. I do apologize if there is anything that sounds argumentative but it is only because I feel really desperate at the moment.

The main issue that I have tried to raise in my correspondence are as follows:

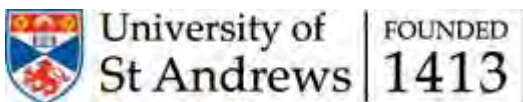
- 1- The original planning application contained “false/misleading information” about the ASHP. There are also false/misleading information in the retrospective planning application which I believe Fife council should have dealt with prior to making both applications public. The original planning application that fife council sent us, as the neighbour who could dispute the project, was very different from the final building. If we had known that the owners of no.41 would be allowed to put their ASHP wherever they want to and go against their planning in the manner which would so drastically affect our lives, and not as specified in the planning application documents, we would have raised the issue prior to the approval of the planning application and the commencement of the project. If they were allowed to breach the planning application and not only change the location of the outer unit of the ASHP but also build a plantroom and move the water/buffer tank(s) in the garden, why did the original planning application contain **so many details** about the location of the ASHP? And who allowed no. 41 to build the plantroom like a soundbox which sends the noise away from their house and redirects it to our house? (The slope of the plantroom’s roof is towards our house; it has thick walls (70 cm) on no. 41’s side; it originally had no walls and now after Mr Gallacher’s report, a thin wall on our side; and it is open to the public pathway directing all the noise outside and to our side). It works just like the soundbox of a musical instrument aggravating and resonating the noise.
- 2- Fife council has dealt with this case as a “small breach of planning application” for which people can apply for retrospective planning applications. This is absolutely not the case. This case is a case of breach of Town and Country Planning order and a breach of MCS Planning Standards. I do not understand why Fife council needs further investigation when the breach is so obvious and why no.41 has even been allowed to apply for a retrospective application when the breach is so clear. The experts who prepared Town and Country Planning Order and MCS Planning Standards have already done the research and investigations and wrote them down as set rules to avoid creating problems for neighbours and guarantee non-hazardous use of certain devices. An installer/builder/architect should not breach such rules just because in the middle of a project she/he feels like it! (DVLA rules have been set for a reason. One cannot break a 20mph rule only because she/he feels the need to do so for her/his own benefit). The Town and Country Planning Order indicates: an ASHP **MUST** comply with MCS Planning Standards”. Obviously this “must” means something. The MCS Planning Standards indicates: “**ALL PARTS** of the air source heat pump **MUST** be **at least one meter** from the property’s boundary”. Again, “all parts”, “must”, and “at least one meter” do mean something here. I do not understand how no.41 has even been allowed to apply for a retrospective planning application when the installation is clearly a breach of Town and Country Order and MCS Standards. An ASHP is supposed to be a “green sources of energy” not a source of “noise pollution” because someone decided to breach the regulations.

- 3- Fife council has dealt with this case as a “neighbourly dispute” over “some noise” which means it may take months and years to deal with this. This is not the case. This case should be dealt with as an urgent health hazard. ASHPs are complicated devices, and many facts about them are hidden or put in small print by the providers and are unknown to the users. Moreover, as it is customary for such disputes, during the first round of noise investigation the neighbours were informed of the time of recording, and they turned the system down. If Fife council wants to do a proper investigation, they must insist that the neighbours “use” heating and hot water during the investigation process not let them turn the system down or off. I just wonder how the Fife council would deal with this case, if it were something visible like the following imaginary case: “every night X enters my home, drags me out of the bed and starts slapping my ears and hitting on my head for at least 60 minutes. It repeats this cycle every two hours. I have cuts and bruises all over my head and face.” The only difference that my case has with this imaginary one is that the damages to my health is not visible to others.
- 4- I really am not sure whether I should raise this last point or not, but during the whole process of my complaint I had the feeling that, rather than acting as a fair and objective institution, Fife council has acted more like the agent of no.41 and has constantly tried to convince me that the installer/builder/architect did nothing wrong. I sometimes even hesitate whether I should mention a point or not because I fear Fife council may use it against me just to close the case rather than solve the problem.

Thank you so very much for your time and consideration.

Best wishes,

Parmis



Dr Parmis Mozafari
105 Buchanan Building, Union
Street St Andrews, UK, KY16 9PH
Office: 01334463639

From: Kirsten Morsley <Kirsten.Morsley@fife.gov.uk>
Sent: 20 August 2021 03:38 PM
To: Parmis Mozafari <[REDACTED]>
Cc: Lyle Smith <Lyle.Smith@fife.gov.uk>; Brian Gallacher <Brian.Gallacher@fife.gov.uk>
Subject: {Disarmed} Re. 21/02318/FULL - 41 Learmonth Place St. Andrews

Dear Ms Mozafari

This is a courtesy email to advise you that I am the case officer for the above planning submission.

I have just read through the planning enforcement file and note your concerns raised regarding the location of the air source heat pump (and the building it is contained within) at the above address.

The neighbour notification period on this application does not expire until 30 August, and the date for a decision is set for 19 September. In the meantime I can arrange for your correspondence which was sent to enforcement to be added to this planning application as an objection. Please confirm whether this would be acceptable to you?

In the meantime due process has to take place. I shall consult with Environmental Services, Enforcement and Mary Murray, the agent acting on behalf of Mrs Penman, your neighbour. This process will take some time but I will revert back to you once I have received the feedback I require in order for me to progress this application.

Regards

Kirsten

Kirsten Morsley

Planning Assistant, Planning Services Fife House, Glenrothes, Fife, KY7 5LT www.fife.gov.uk/planning
Kirsten.morsley@fife.gov.uk / development.central@fife.gov.uk Follow us on twitter @Fifeplanning

Comments on Retrospective Planning Application of no.41 Learmonth Place, St Andrews

I strongly oppose the new location of the ASHP, its water/buffer tank, and its plantroom. I also oppose other changes to the building raised in the supporting statement of the application including the third parking space. I also oppose issues ignored in the application including the reduction of the green area, the height of the building and its elevation from the ground (street elevation). Please find below the reasons for my objections (13 pages):

1- PLANNING AND BUILDING STANDARDS

- a) Non-compliance with the Town and Country Planning Order and the MCS Planning Standards.

Under section 6.19 of the Town and Country Planning Order “an ASHP **must** comply with MCS Planning Standards”. The MCS Planning Standards indicates: “**all parts** of the air source heat pump **must** be at least one meter from the property’s boundary”. The new location of the ASHP is clearly against the MCS Planning Standards. The outer unit of the ASHP is only 20cm from its boundary with public pathway and 78cm from its boundary with no.39. The plantroom and the water/buffer tank in it, as **parts** of the ASHP, and the metal frame of the plantroom are on the boundary with the public pathway and no.39.



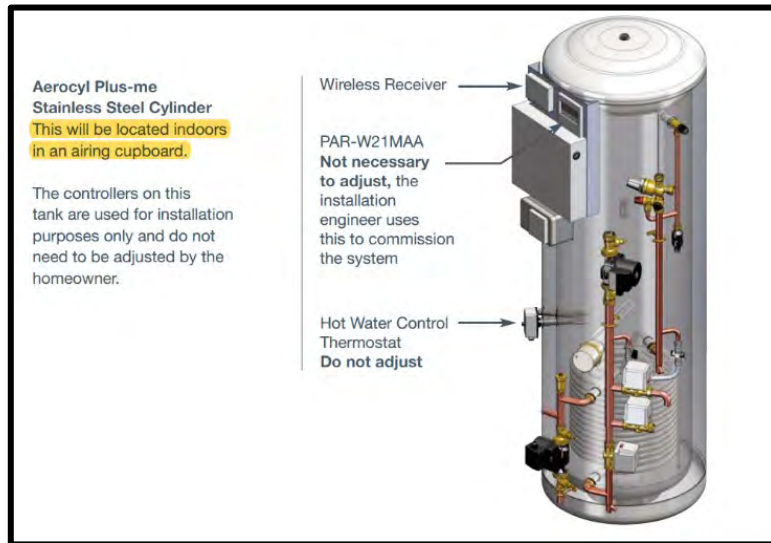
Photo 1: Location of ASHP in relation to no.39 and no.41



Photo 2: The ASHP and its plantroom

b) Non-compliance with other regulations

The product information of the model of the ASHP of no.41 (PUHZ-W112-VHA(-BS) indicates that the cylinder (water/buffer tank) is supposed to be installed indoors.



This has also been indicated in the original planning application of the building in Document 07_-_PROPOSED_GROUND_FLOOR_LAYOUT_PLAN-2428866 where the water/buffer tank is drawn in the cupboard in the utility room.

To maintain maximum efficiency, the outer units are normally placed next to the property to minimise heat loss through the pipes. Thus, placing the outer unit and the water/buffer tank at a **3.8m distance from the building defeats its energy-saving purpose** as the heat loss through the pipes makes it work more frequently and for longer hours.

Moreover, the installation standards suggest that the outer units “be installed in a place that’s easy to access for services and other general maintenance.” It also says: “if the heat pump is the primary heating and cooling system instead of a complementary system, one should service it twice a year.” No.41 – against its original planning application – does not have solar panels and does not seem to have any other source of heating, so the ASHP is the primary heating system and needs to be serviced twice a year, but the location of the device makes it likely that the owners do not notice the noise, and the **metal welded frame** in front of the outer unit makes it difficult to access. Please note that most experts specify that the device would get louder as it gets older. It also gets much louder if it is not serviced regularly.



Photos 3 & 4: The welded metal frame

2- NOISE IMPACT

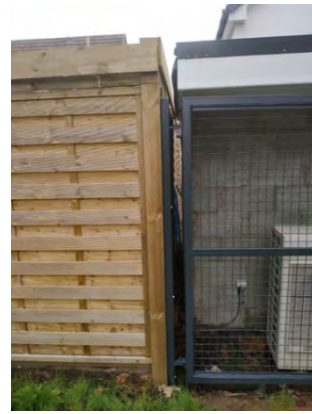
Under the Human Rights Act, Protocol 1, Article 1 a person has the right to peaceful enjoyment of all their possessions, including the home and other land.

- a) The noise/vibration from the ASHP and its water/buffer tank in the plantroom has severely disrupted my sleep for the past few months, and sleep deprivation has seriously affected my mental and physical health, my everyday life, and my performance at my job. The noise is from a **permanent equipment** installed as part of the development. The noise is a **statutory nuisance** under section 79 of Environmental Protection Act 1990: “Noise emitted from premises as to be prejudicial to health or a nuisance” and “noise that is prejudicial to health or a nuisance and is emitted or caused by a vehicle, machinery or equipment in a street [or in Scotland, road]”. Because the device is placed somewhere that is virtually in the public path and is yet at the verge of the premises, both laws are applicable here. This also means that the noise is a health hazard as the same Act explains “prejudicial to health” as injurious, or likely to cause injury, to health” for which I refer to my GP’s letter.
- b) The ASHP’s outer unit works regularly especially throughout the night in cold seasons (about 8 months in Scotland) with the **sound power of 65dBA**, and the water/buffer tank makes a continues 28dBA noise.¹ Moreover, the erroneous design of the plantroom – with thick concrete walls at the back and the side facing no.41, a thin wall facing no.39, and completely open to the public path – works like a **loudspeaker** or the resonance chamber of a musical instrument sending all the noise towards the public footpath and no.39. The movement of air and the noise generated by the device also vibrates the metal frame which adds to the problem. The plantroom enhances the noise of the device, the water/buffer tank in it, and it even seems to amplify and reflect the surrounding noise of the area.
- c) To use the wording of section 79 of Environmental Protection Act 1990, the noise from this device has “unreasonably and substantially” interfered “with the use and enjoyment” of my home and my back-garden. Because the device provides no.41’s space heating and hot water, sometimes even in hot sunny days I cannot enjoy being in my back-garden. This is simply because I have to tolerate a **65dBA buzzing noise** for hours if no.41 wants to use hot water for cooking or taking a shower.

¹ ASHPs are complicated devices, and many facts about them are hidden or put in small print by the providers and are unknown to the users. For instance, the product information sheet for no.41’s Air Source Heat Pump PUAZ-W112-VHA(-BA) makes a potential buyer assume that the device is not noisy by indicating in the main page that the “**sound pressure**” level of the device is **53dBA** and its low noise mode is **46dBA**. But in the small print where people would not notice it, it mentions that the “**sound power**” level of the device is **65dBA**.

- d) The noise and the vibrations are more noticeable and disturbing at night-time between 10:30pm and 8:30am as this is the time that the weather gets colder, and thus the ASHP works more **vigorously** and **constantly** and go through its noisy cycles of start-up, defrosting mode, electrical operation noise, extended fan noise and shutdown.² I hear the noise and feel the vibrations in my ears in all the rooms upstairs and downstairs even through closed double-glazed windows. Along with these regular noises, there is also a continuous humming/buzzing noise. When this noise combines with the noise of the outer unit, the result is **excruciatingly painful and overwhelming** for me.
- e) An ASHP is supposed to be a “**green source of energy**” not a source of “**noise pollution**”. It is, therefore, urgently important that their installations are closely regulated so that the installers, in this case “Eco Coil Heating Limited”, are forced to abide by regulations.
- f) After my original complaint, it was proved by the environmental health officer that the noise level reaching our house is far above the permitted level. The permitted noise level in our area is NR25 at night and NR30 during the day. Although during the recording week no.41 had turned the device down, the officer confirmed an NR35 for night-time and NR39 for daytime. No. 41 then built a thin wall to the side facing our house (no.39). Obviously, because they have built a 73cm walls on their own side to fend off the noise from their house, and because building a proper thick wall on our side would have left little room for the device, they did not build a proper wall on our side. As it stands, the wall that they have made on our side (no. 39.) looks about 30 cm from outside but this is just a deceptive surface as it is actually only one layer inside and has a gap on the top. However, since **the whole structure breaches the Town and Country Planning Order and the MCS Planning Standards, this thin layer would not change anything.**

² Due to the average temperature in Scotland between mid-September and mid-May, the device is almost always on night and day in those months, and it is also frequently on for hot water in other months as well. It should also be taken into consideration that even in warm months, as mentioned in the brochure, a household’s daily usage of hot water (instant boiling water taps, shower, dishwasher, washing machine) means that if, for instance, one wants to shower at 7am, the system must be set to start work at 5am and work for two hours if it is to provide hot water for 7am. This means that for just a shower the system needs to go through the above motioned noisy cycles for two hours, which means that I am forced to wake up at 5 am and stay awake for two hours every day, because the residents of no.41 want to take their daily morning showers. Now you can imagine what happens during cold months when the device is supposed to provide heating in addition to hot water and the system will switch into its very noisy defrost mode much more frequently.



*Photos 5 & 6:
The plantroom's
structure prior
to building the
thin layer at
no.39's side*



*Photos 7, 8, &
9: Thin wall in
comparison
with the thick
wall*

- g) I contacted "Eco Coil Heating Limited" to receive their formal confirmation that they were the installer of the ASHP at no.41. They only answered my initial call saying they would inform me. However, they refused to respond to my emails and further phone calls, and neither denied nor confirmed that they were the installers. So, it is still a mystery **who has come up with the idea and designed and built the plantroom** as it works like a resonance chamber and it has breached MSC regulations. The slope of the plantroom's roof is also towards our fence which means it collects the rainwater of a roof area of more than 8m² and pours it on our fence. It also means that huge amounts of fallen leaves from the large tree in the back of no.41 in the public path are also directed to our back garden.



Photo 10: Plantroom's roof

3- VISUAL IMPACT

Both the outer unit of the ASHP and its plantroom are completely **visible** and accessible to the public and **immediately obvious** from the public pathway, which clearly **breaches “the setback zone”** of the property as the outer unit of an ASHP is not a fence or a simple wall. The installation is also clearly against the regulations and a breach of the original planning application: document 14_-_DESIGN_STATEMENT-2428860 section 7.03.20 which indicates: “The position of the solar panels on the south-east facing roof and the location of the air source heat pump to the rear of the parking area will ensure that they are not immediately obvious when the house is seen from the street and will therefore have minimal impact.”



*Photos 11 & 12:
The ASHP and its
plantroom are
immediately
obvious*

The outer unit of the ASHP can even be a **public hazard** especially for the children playing in the area.



*Photo 13: Coils and other electric parts
of the outer unit*

4- JUSTIFICATIONS BASED ON FALSE and MISLEADING INFORMATION

- a) The retrospective application refers to a “new garden shed”. This is misleading information. It is, in fact, a “**plantroom**” that houses the water/buffer tank of the system. The structure of the plantroom, with a door on the side of no.41, clearly suggests that the tank is close to the wall on the side of our house (no.39). Thus, the plant room and the devices inside are in breach of the MCS Planning Standards (within one meter of the property boundary). To reiterate what I mentioned above, the product information of no. 41’s ASHP model indicates that the water/buffer tank should be installed in the house. In the original planning application of the building, the water/buffer tank(s) was/were also supposed to be in a cupboard in no.41’s utility room. If as the retrospective application claims, it is a “garden shed”, why do they now need a place for their bins at the front of the building? Why the thick wall on their side? And why don’t they put their bins in this “garden shed”?



Photo 14: This is a plantroom, not a shed.

- b) The retrospective application indicates: “During construction on site, the decision was made to re-position the air source heat pump ...” **Who made the decision? Who approved of the decision? Who is responsible for the damages to my mental and physical health because of the decision?** The retrospective application also says: “The new location for the heat pump is considered to be a better position than that originally approved”. **Who says so? Who conducted the research to prove it has a “better position”?** Such decisions must be made and have already been made by the experts working at the Town and Country Planning Order and MCS Planning Standards, who have written them down as set rules to avoid environmental and health problems and guarantee non-hazardous use of noisy devices such as ASHPs. An installer/builder/architect should not breach such rules just because in the middle of a project she/he feels like it. We are not talking about the position of a silent object, but an object that constantly makes noise, and can, therefore, be a source of noise pollution. The current position is not a “better position” for this device. Since the garden of no.41 is very small (the plot ratio is 1 in 1.8), the only location that would follow the regulations is the one in the original planning application (at the rear of the parking area/southeast side of the building).

- c) The retrospective application indicates: “it is believed that dense masonry to the rear and sides of the new heat pump, coupled with a roof above, will go some way to absorb and reflect noise away from these neighbouring properties.” **Who has checked the accuracy of this statement? Who will be responsible** for the damages to my mental and physical health because of such unscientific assumptions? The statement is completely wrong and deceptive. The plantroom has been clearly designed only to protect no.41 from the noise.
- d) The retrospective application indicates that the distance of the ASHP from no.39 is 0.8m. It is 78cm, which is 22cm closer to the least legal distance from the boundary, but more importantly the application completely ignores the fact that the outer unit of the ASHP is only 20cm away from the public pathway (which is also a boundary) and the plantroom and the water/buffer tank in it are on the boundary with no.39 boundary.
- e) The retrospective application specifies that “the changes for which consent is currently sought are minor”. **The changes are by no means minor** as they have taken a source of noise from one side of the building to another to fend off the noise from the applicant’s house. It also talks about “increasing the minimum distance from neighbouring properties”. This is again a wrong justification because it uses the excuse of no. 43 to justify moving the device closer to no.39 while the purpose of the move has been to fend off the noise from their own house. The reality is that in the original planning the device was attached to the wall of no.41 and was facing the garden brick wall of no 43 and its southwest wall and not any of its main windows. But the current position has one of the two noise-generating parts of the device (the left side when one faces the device) towards no. 39. Please note that the device produces two kinds of noise: one from the front fan and one from the electrical coils on the left. So, when it comes to the direction of noise, unlike what the retrospective application claims, the noise from the left side can be as disturbing as, if not more than, the one generated from the front. Furthermore, the resonating effect of the plantroom increases the noise before sending it to our side and the public path. So, it is clear that the main reason the location has been changed has been to keep the noisiest parts of the device away from no.41, and the thick 73cm wall has been added to design to make sure that a minimum amount of noise reaches them. Indeed, even if they were really worried about no. 43, one wonders why they weren’t worried about no. 39? Considering that the demolition of the bungalow and the construction of the new building have had the biggest impact on our house (no.39) why the discrimination?³

³ During the demolition, the careless demolisher did the job in a way that our back garden was filled with white fluffy insulation material which was impossible to get out of the lawn or the corners of the garden. It was so much that we had to change our lawn. At the time, when we complained to the fife Council, they failed to take any action, and just said “no.41 has done everything responsibly!” The owners also did not do anything. So since we were worried that the material may be damaging to our children we spent more than three days to clean everything and change our lawn.



Photos 16 & 17: No.41's driveway and gate

- g) The retrospective application tries to justify the new location of the ASHP by saying: "ASHP is further away from no.43" and "the new position [of the ASHP] faces away from both properties. Firstly, no.43 could have opposed the original planning application before commencement of the project as they were the most affected. So, it is not clear why no.41 decided to breach their original planning application and impose the noise on no. 39 based on such a claim. Secondly, despite what the retrospective application states, the statement about the device now facing away from both properties is false because in the original planning application the device was completely away from no. 39, so what they are saying only applies to no. 43. Furthermore, as the evidence shows and my current health issues due to the noise problem demonstrates, the device does, indeed, have a huge impact on no.39. Indeed, as I have demonstrated above, they were only concerned about themselves, but are using no.43 as an excuse to impose the noise on no.39.

5- OTHER BRECHES IN THE RETROSPECTIVE APPLICATION:

- a) **Landscaping and Green Infrastructure:** The original planning application Document 14_-_DESIGN_STATEMENT-2428860 section 7.03.26 indicates that "Green infrastructure in this urban setting will be enhanced by an increase in grassed area from 29m² as existing to 86m² as proposed. In order to comply with the client brief for low maintenance gardens, flower beds and gravel areas will be removed and replaced by lawns, shrubs a small cherry tree. The latter not only allowing for biodiversity but also providing discrete screening between No's 39 and 41 Learmonth Place." However, as seen in the retrospective application site layout and the photos below, all the surface is covered with tiles, and there is no lawn in any part of the garden. The proposed new parking at the front of the building will even go further to eliminate almost every inch of green at no.41.



Figure 3: Grassed area in the original application (86m²) VS retrospective application (6m²?)

- b) **Renewable Energy Sources:** The original planning application Document 14_-_DESIGN_STATEMENT-2428860 section 7.03.19 indicates “In order to reduce CO2 emissions generated by normal usage, low and zero carbon generating technologies will be employed in this new, resource efficient house. A combination of solar photo voltaic panels and air source heat pump will be employed to generate renewable electricity and heat for hot water and space heating”. Document 16_-_LOW_CARBON_CHECKLIST-2445388 indicates that the house is to have both solar panels and ASHP. Solar panels are supposed to provide a green source of power for the ASHP. However, because the electricity usage of ASHPs is very high, no.41’s device only puts more pressure to the power system of the town.

6- FURTHER POINTS FOR CONSIDERATION:

- a) **Breach of original planning application and/or misleading information:** I believe that Fife council should have clearly informed us as the most affected neighbours that no.41 may change the place of their ASHP. The original planning contained so much detailed information about the structure and the location of the ASHP that it created the assumption that everything will be done exactly as planned. But the result ended up very different from the original specifications, in clear breach of MCS regulations and clearly done by a non-professional (or perhaps a very professional installer who wanted to fend off the noise from no. 41). If Fife council had informed us about the possibility of moving the device without any permission, we would have raised the issue prior to the commencement of the project when the original application files for demolishing the bungalow and building a new house were sent to the neighbours.

b) **Elevation from the ground (street elevation) and Height of the building in terms of daylight/sunlight and the scale/dominance of the building:** It seems there is a breach in terms of the height of the building of no.41 and/or its elevation from the ground. In my original complaint about the breaches in planning application of no.41, I had asked Fife council to check both issues. I have sent several reminders since, but all of them have been ignored. obviously, a measurement of the highest point of the building from the sea level and comparing it with what is specified in the original planning will clarify if any discrepancy exists.



Figure4: Original Planning Application- Elevation from the Ground



Photo 18: Height/street elevation of the old bungalow in comparison to no.39



Photo 19: Height/street elevation of the new building in comparison to no.39

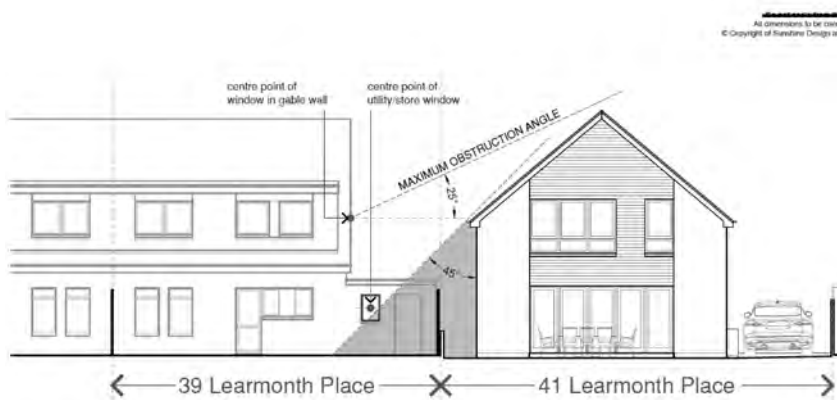


Figure 5: Original Planning Application – Elevation from the Ground – Daylight and Sunlight



Figure 6: Proposed street elevation/massing



Photos 20 & 21: The real street elevation/massing of no.41

- c) **Raising a red flag:** At a larger level, I wish for this case to be considered as a raising red-flag case as this device is indeed dangerously disruptive to some people. Human beings are not machines, and they have different reactions and different levels of sensitivity to similar stimulants (in this case special forms of noise, vibrations, levels of noise or frequency). The discrepancy of the regulations concerning the distance of the device from property boundaries in the countries within the United Kingdom is by itself revealing of the reality of the problem: whereas in Northern Ireland, the external unit must be more than 30 metres away from the nearest house and in Wales more than 3 metres, in England and Scotland it is only 1 metre.

While the initiative for going green is praiseworthy, it must not come at the expense of people's health and replacing one form of pollution (air) with one that is more immediately problematic (noise).

Agenda Item 5(4)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

Consultee Comments



Economy, Planning & Employability Services

**Town and Country Planning (Scotland) Act 1997
Application for Permission to Develop Land**

Response from Environmental Health (Public Protection)

PPT Reference No:	21/16233/CONPLA		
Name of Planning Officer dealing with the matter:	Kirsten Morsley		
Application Number:	21/02318/FULL		
Proposed Development:	Installation of air source heat pump (amendment to 19/02448/FULL)		
Location:	41 Learmonth Place St Andrews Fife KY16 8XF		
Date Required By Planning:	---	Decision Notice Required?	---

COMMENTS
<p>I refer to the above application. A complaint regarding noise associated with use of an Air Source Heat Pump was received by Environmental Health (Public Protection).</p> <p>Noise readings were taken and initial findings indicated that the noise levels associated with the ASHP did not comply with the condition attached to planning application 19/02448/FULL i.e. "The total noise from all plant, machinery or equipment shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation."</p> <p>The information submitted in support of planning application 21/02318/FULL does not provide sufficient detail to demonstrate that the above condition will be complied with.</p> <p>Additional information to demonstrate that appropriate controls are to be put in place to reduce the likelihood of noise complaints from nearby residents, is required before Environmental Health (Public Protection) can make a fully informed consultation response.</p>

These are the comments of the Environmental Health (Public Protection) Team, for comment on Contaminated Land or Air Quality you should consult the Land & Air Quality Team.

Date:	19/08/2021	Officer:	B.Gallacher Environmental Health Officer
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Kirsten Morsley

From: Brian Gallacher
Sent: 13 June 2022 14:01
To: Kirsten Morsley
Subject: 21/02318/FULL - Installation of air source heat pump (amendment to 19/02448/FULL) |- 41 Learmonth Place St Andrews Fife KY16 8XF

Afternoon Kirsten,

re the above planning application, it was previously requested that the applicant provide detail to demonstrate that noise levels associated with the Air Source Heat Pump would be compliant with the following condition:-

"The total noise from all plant, machinery or equipment shall be such that any associated noise complies with NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any relevant noise sensitive property, with windows open for ventilation."

As far as I'm aware the requested information has not been provided.

The agent has provided an acoustic report by Robert Marriner – WSP Acoustics, but it is my understanding that this report has been submitted to demonstrate compliance with the MCS Planning Standards.

There is a noise nuisance investigation associated with the use of the ASHP, however the investigation has not been concluded.

There is a possibility that the Council's ongoing investigation into the alleged noise nuisance could lead to criminal proceedings depending on the outcome of that investigation. Disclosure of information associated with the nuisance investigation could undermine the ability of the person against whom the noise nuisance is alleged to prepare their case and receive an impartial hearing. Therefore, I do not believe it is appropriate that information relating to the nuisance investigation is released at this point,

Regards,

Brian Gallacher

Environmental Health Officer -Environmental Health (Public Protection)
Protective Services
Fife Council
Fife House
North Street
Glenrothes
Fife
KY7 5LT
03451 555 555 ext. 446850
brian.gallacher@fife.gov.uk

Information on how Environmental Health use and look after your personal data can be found within our privacy notice: <http://fifedirect.org.uk/EHPrivacy>

Agenda Item 5(5)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

Further representations

For the kind attention of the Local Review Body,

I understand that a Notice of Review (21_02318_FULL-NOTICE_OF_REVIEW-3359708) has been submitted for application 21/02318/FULL, to which I previously objected. I can confirm that all the matters raised previously still stand.

I have provided my comments as a PDF file in 20 pages and four sections: A) Comments on the Report of Handling, B) Comments on the Notice of Review, C) Comments on the WSP Report, and D) Conclusion. To make it easier to follow my arguments, I have highlighted the comments made by the Fife council and the applicant in blue and my own comments in black. I have also highlighted my main arguments in grey.

A) comments on the Report of Handling

1.2

This planning application, which was **validated** by Fife Council on **19 May 2021**, seeks **retrospective** planning approval for the ASHP installation. The ASHP installation was completed on 22 March 2021.

a) The application was received and validated on **19th July 2021**, not 19th May.

b) I believe the following information are necessary for clarifying the case: My husband and I notified no.41 about the noise issue in March and April 2021¹. As they did not do anything about it, I contacted Public Protection (Environmental Health) on 28.04.2021 and filed a complaint against no.41 with Planning Services on 07.05.2021 about the followings: i) the re-location of the ASHP; ii) the so-called shed; iii) the height of the new dwelling house and its elevation from the sea level (sunlight/daylight impact on my house); and iv) the solar panels. Planning Services closed my complaint case without any investigation and only re-opened it after I contacted an MP. Based on all the issues that I had raised in my complaint with Planning Services, no.41 applied for a warrant (20/00262/BW/A) on 11.06.2021 which was validated and decided by Building Standards on 02-08-2021². No.41, then, applied for a **retrospective** application on 19.07.2021.

1.4

Planning approval 19/02448/FULL shows that the ASHP was originally to be placed on the new dwelling's south-east elevation and was to be a Mitsubishi Heat Pump. Fife Council's Environmental Health (Public Protection) team also advised that noise levels ...

¹ We tried to resolve the issue with no.41 prior to contacting Fife council. We informed the applicant (Mrs Maureen Penman) about the noise issue of the ASHP in March 2021, and the current resident of no.41 (Ms Jane Downie, the applicant's daughter), and the builder/site manager of no.41 (Mr James Penman, the applicant's son) in April 2021 (two letters dated 11-04-2021 and 18-04-2021, talks and messages). On 26-04-2021 I informed Mr Penman that since they were not doing anything about the issue, I was planning to file a complaint against them, but his only response was 'do it'.

² Details of the warrant are as follows: delete solar panels, install heat recovery unit, reposition ASHP, ... alter dressing room, and minor alterations to layout. The Building Standards officer did not do a proper investigation. For instance, he did not know that the roof area of the so-called shed is more than 8sqm. My queries about whether any assessment has been carried out in relation to noise impact of the Heat Recovery System have been ignored.

According to legislations related to ASHPs, where permitted development does not apply, a planning application will be necessary and, under those circumstances, a 'noise assessment' should be provided. As the installation of the ASHP at the driveway of no.41 was not a permitted development, the developer was supposed to provide a 'noise assessment' for the planning application (19/02448/FULL). Fife council was also supposed to request for a 'noise assessment' or carry out proper investigation prior to approving the original planning permission for the ASHP. However, no.41 never provided any 'noise assessment' for the original planning application (19/02448/FULL). Fife council also neither asked for such an assessment nor carried out any investigation or assessment. Instead, Fife council approved 19/02448/FULL application and only added a 'noise condition' to it³.

No.41 was **legally bound to fully comply with** its planning permission (19/02448/FULL); however, they breached their planning permission that had a 'noise condition', **deliberately** and with **no valid reason**.

1.6

The applicant has cited that they were unaware that planning permission would be required to relocate the ASHP and were of the view that the installation was 'permitted development'. I strongly believe that the applicant has provided Fife council with '**false information**' in order to justify their '**deliberate**' breach, and I have no idea how Fife council accepted their 'reasoning'. It is impossible to believe that the applicant (Mrs Maureen Penman), the current resident of no.41 (Ms Jane Downie, the applicant's daughter), and even the experienced site manager (Mr James Penman, the applicant's son) – as the directors of James Penman Plant Hire which has contracts worth millions of pounds with Fife council – were all unaware that planning permission was required to relocate the ASHP. No one would also believe that the experienced architect/agent (Ms Murray who has been active in the field since 1996) and the experienced 'certified' installers (Eco Coil Heating who according to the applicant has more than 200 successful installations) were all 'unaware' that the development needed a permit.

Considering the above, I believe 'the developer deliberately concealed the unauthorised development'. They did not just refrain from informing the local planning authority about the breach but 'took positive steps to conceal the unauthorised development'. So, I strongly believe that Fife council should have not validated the application (21/02318/FULL). Considering the fact that Environmental Health had confirmed NR34/night and NR39/day (permitted level: NR25/night, NR30/day) based on investigation during 7 to 14 May 2021, prior to the date the application was received, Fife council should have issued a stop notice/enforcement action 20 months ago, in the first place. Moreover, according to Fife Council Enforcement Charter 'Breaches of conditions are investigated in the same way as

³ I have asked Fife council many times and in different context whether they have followed the **correct procedures** regarding the planning permission for the ASHP (19/02448/FULL), but I was never provided with a response. I asked Fife council to clarify **why they approved the potentially problematic application** and only added a condition, why they did not carry out proper investigation about the noise impact of the ASHP despite Public Protection's "concerns" in relation to the original location of the ASHP (driveway). I strongly believe that **if Fife council had carried out a proper investigation for the original application, none of these would have ever happened.**

breaches of planning control'. The applicant in this case has breached the planning permission and the condition.

1.7

... the ASHP is positioned at the rear of the property and does not front a road. ...

Furthermore, unlike in England, there is no requirement in Scotland under The General Permitted Development (Scotland) Order 1992 as amended, for an ASHP to be set back at least 1.0 metre from a garden boundary.

The following regulations have been overlooked by Fife council:

- a) The Town and Country Order states: 'development is not permitted within the curtilage of a building if any part of the installation would be forward of a wall forming part of the principal or side elevation of a building where that elevation fronts a road'.
- b) The term 'building' in section 336(1) of the 1990 Act has a wide definition which includes 'any structure or erection'.
- c) 'Road' means any route (other than a waterway) over which there is a public right of passage (by whatever means) and includes the road verge or footway and any bridge (permanent or temporary) over which, or tunnel through which, the road passes, and any reference to a road includes a part thereof'. The ASHP, therefore, does front a road.

In legislations related to 'means of enclosure' nothing other than walls, fences, garden gates/doors, and plants can be used as means of enclosure, ie. on the boundaries in residential areas. Both the ASHP and the metal grill are on the boundary. Noise generating devices such as ASHPs (that constantly generate high and low frequency noise) or smoke generating devices such as garden incinerators or barbeques cannot be installed on the boundaries of houses in residential areas. This is of great importance in areas like Learmonth Place where the back-gardens are mostly small, and no.41's garden is the second smallest in Learmonth Place. Therefore, when it comes to planning, the installation of the ASHP on the boundary of no.41 is not acceptable.

2.3.3, 2.3.7, 2.4.2, 2.4.3 SPP, FIFEplan Policy, Fife Low Carbon ...

... in order to effectivity assess microgeneration installations against Fifeplan Policy 11 - Low Carbon, detailed supporting information should be submitted by the applicant or agent where required and where requested by Fife Council so that **all impacts and effects** of these installations can be **effectively examined** and **robustly assessed** against all other material planning considerations which in turn will inform the outcome of any planning recommendation.

The report of handling correctly mentions the above in relation to assessments for microgeneration installations. I have asked Fife council many times to clarify why no 'effective' and 'robust' assessments were carried out for the original planning application/permission (19/02448/FULL) and before validating the retrospective application (21/02318/FULL), but I was never provided with a response.

2.3.6

The installation of the solar panels however were not a mandatory requirement of the planning consent.

It might not have been a planning requirement, but I believe it is a requirement under other legislations such as FIFEplan and Low Carbon Fife. As ASHPs consume a great amount of electricity, most of which still is provided by burning fossil fuels, Solar Panels are of great importance in terms of providing green sources of energy.

2.4.4

Fife Council's Planning Customer Guidelines on Daylight and Sunlight and Garden Ground expand on those policies highlighted above and outline in more detail what the design expectations in relation to residential amenity requirements should be.

The sunlight/daylight issue is not and has never been about the outbuilding, but about the **height and ground elevation of the new dwellinghouse**. I raised the issue in my complaint case to Planning Services and asked for assessments that shows compliance of the height of the new dwellinghouse with planning permission (19/02448/FULL), but a 'fabricated' assessment was provided by no.41 and Fife council⁴.

2.4.5

... the ASHP is protected by a secure metal grill and therefore is not considered to be unsafe.

I do not believe the metal grill makes the ASHP 'safe'. Firstly, the device is completely accessible to passers-by. Secondly, the ASHPs can be protected by 'light-weight' frames with 'easy access' for emergencies and periodic checks and maintenance. The current metal grill can only be removed by two people or one strong person for access. Thirdly, ASHP's outdoor units should be protected from high winds and debris. The ASHP is not only exposed to high winds but also to plant debris due to the large number of bushes and trees in the area. The Council's lawn mowers scatter bits of grass everywhere including the ASHP. Any of these may damage fan blades, outdoor coils and other components which may lead to hazardous complications.

Moreover, the applicant has not provided any proof, except the agent's claim, that the ASHP has been installed by 'qualified' installers. **The fact that the device has not been installed by 'qualified' installers makes the ASHP potentially unsafe and a hazard.**

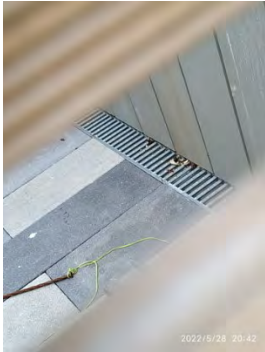
As the outbuilding complies with all the criteria required for 'permitted development' under Class 3A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended, Fife Council planning cannot intervene and insist that a gutter be fitted.

Just stating that the 'outbuilding complies with ...' does not change the 'facts' about the outbuilding. The roof area of the outbuilding is more than 8sqm and its slope of is towards my garden. **According to Building Standards, no.41 is supposed to build a drainage channel** on the boundary of the outbuilding with my house. However, even building such a drainage channel would not change the fact that the rainwater pours directly on my garden fence. It

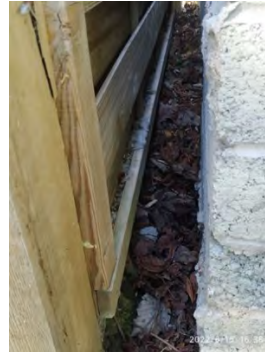
⁴ I am still waiting for clarifications about the assessment. The house was supposed to have the height of a 1.5 storey building and the foundation of it was supposed to be lower than the bungalow. I am happy to provide further information regarding the issue if necessary.

also does not change the fact that the height and the slope of the outbuilding directs the fallen leaves of the huge tree at the back of no.41 to my back-garden.

Considering that access to the location where the drainage channel is supposed to be built is almost impossible, I have asked Building Standards to clarify how the drainage channel is going to be built, but I was not provided with any response.



Drainage channel at no.41 garden



The boundary where another drainage channel must be built

Issues however regarding that the outbuilding 'amplifies the noise like a 'sound box' ' are considered in further detail under paragraph 2.4.11 of this report.

There is nothing mentioned in relation to this important issue in 2.4.11.

For issues in relation to the outbuilding amplifying the noise please go to point 2.5.3.

2.4.10, 2.4.11, 2.4.12

The WSP report is a 'fabricated' assessment. For full details about the WSP report please go to section (C) Comments on the WSP report.

2.4.15

The equipment Environmental Health uses does not measure vibration or electromagnetic field impact ... Environmental Health have stated that the equipment they use to assess the noise impact is fit for purpose

A comprehensive assessment for an 'already installed' ASHP that does not fall under permitted development must investigate 'Tonality, Intermittency of operation, Sound levels in reverse cycle, Low background sound levels, Structure borne sound and vibration transmission'. Assessing the vibration is of great importance especially because the ASHP is on the boundary.

2.4.16, 2.4.17

... the objector [took] her complaint to Ombudsman ...

If the members of the board would like to know about the details of how Fife council handled my complaints and why I decided to take my complaint to Ombudsman, I am happy to provide them with all the details including my correspondence with different departments and individuals within Fife council, the Scottish Government, MCS, PAS, MPs and Ministers, etc.

Among the issues that I raised with Ombudsman, the following two are of great importance:

- An **'appropriate notice'** was not issued by Fife council in the first place considering the fact that the breach was **'deliberate'**, and the fact that Environmental Health confirmed the NR level higher than the permitted level prior to no.41's retrospective application.
- Considering that the **'deliberate'** breach has caused serious health issues for me, Fife council did not take any steps towards solving the issue faster. According to Fife Council Planning Charter "A priority system is used for investigating possible breaches based on matters such as the **effect/harm** of the breach. ... In prioritising alleged breaches, the Council will consider the potential harm caused by the unauthorised works". I have pleaded to Fife council many times to deal with my case sooner, but they insisted that they did not have any special system to prioritise my case.

2.5.3

... the outbuilding ... is not considered **odd looking** ... [and] it complies with all 'permitted development' criteria ...

The outbuilding 'is' odd-looking, and I would be really surprised if Fife council can find one construction within residential areas in Scotland with a similar shape, material, location, and function.

The ASHP is **screened** on two sides and by the outbuilding's roof and is only visible from the parkland. ... ASHP is considered **compliant with** the relevant policies relating to **design and visual impact**.

- a) Because the ASHP is one the boundary with the public path, it is visible from every angle to passers-by. It is interesting to note that according to WSP report, the two side walls are so small that they cannot be considered as reflective surfaces. The WSP report also does not count the roof as a reflective surface and only adds 0.007 to the Q number for it. Fife council, however, states that the two side walls and the roof 'screen' the ASHP. Fife council also states that the ASHP is **only** visible from the parkland and ignores the fact that the ASHP fronts a **road (public pathway** in the parkland) and is completely visible.
- b) As mentioned earlier, noise or smoke generating devices cannot be installed on boundaries of houses in residential areas.
- c) The **'function'** of the outbuilding has totally been ignored by Fife council. As a **construction that houses a noise generating device**, the outbuilding **does not comply with** 'permitted development' criteria as its odd shape definitely amplifies the noise as the sounds that hit the walls are bounced back and reverberated elsewhere. Concrete walls are typically **highly noise-reflective**, and **bounce noise back away from them in unpredictable and annoying ways**.
- d) I do not believe any proper investigation and assessments have been carried out regarding the visual impact of the ASHP, for instance one based on **the Scottish Landscape and Visual Assessment Criteria** including character, quality, value, magnitude, sensitivity, significance, effects, and sensitivity.

B) Comments on the Notice of Review

1.05

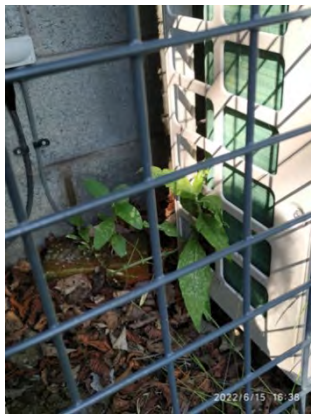
... site inspection ... hearing sessions

Considering all the issues that I have raised above and below; I believe there is no need for further inspection. Moreover, considering the level of 'harm' and the length of time (20 months) that it has taken Fife council to make a decision, I believe taking enforcement action to 'remove' the ASHP from its current location and installing it in the location for which there is already a 'planning permission', is the only 'fair and appropriate' resolution. No.41 will then find out if the noise of the ASHP disturbs them in their master bedroom, kitchen, and garden.

As the installation has serious planning issues and problems, I do not think further assessment is necessary. However, if, despite all the facts, major breaches, false and fabricated assessments, false and misleading information and justifications in the retrospective proposal, etc, the members of the board decided that site inspection and hearing sessions are necessary, I insist on the followings:

- a) The ASHP should be set to **full power mode, not 'quiet mode'**. Unlike what the applicant states, their ASHP has a **system control** that can even be manged remotely. According to the ASHPs brochure, 'The ClimateHub system can be managed remotely. Using the optional Wi-Fi kit, users can control different aspects of the system through the Samsung SmartThings app3 turn it on and off, control and monitor its functions.' The two modes are very different in terms of the volume of the noise, the frequency, the length of time that different parts of the device function, and the vibration that the device generates.⁵
- b) The amount of hot water that is used (for instance for showers), the desired temperature for the house/hot water, and ambient temperature are all important factors in the length of time and how vigorously the device works. Hot water for a shower, for instance, shall be used so that the investigator can assess the **actual noise** of the device, not a 'planned quiet mode'.
- c) **Low frequency noise** which is as disturbing as high frequency noise must be assessed. Most noises that upset people are low frequency noises, which are quite hard to capture with typical consumer recorders because they usually automatically filter the very low frequencies to provide a better, rumble-free recording quality.
- d) Considering the fact that the ASHP is less than 80cm away from the boundary of my house and is on the boundary of no.41 with 'parkland', structure-borne assessments must be carried out along with air-borne assessments.
- e) Both the likely level of noise exposure at the time of the assessment and **any increase that may be expected in the foreseeable future** must be investigated. This is of great importance because ASHPs get noisier when older, when they are exposed to high winds and plant debris, and when they are not maintained regularly (like the one at no.41). Please see the following photos of a plant growing in the outbuilding and all the plant debris.

a) ⁵ I have audio and video recordings that show how the two modes are different and how vigorously and loudly the ASHP works when it is in its normal/everyday use versus when it is in quiet mode. I am happy to share the video and audio files with the members of the board, if necessary.



- f) A proper investigation based on the **Scottish Landscape and Visual Assessment Methodology** must be carried out including criteria such as character, quality, value, magnitude, sensitivity, significance, effects, and sensitivity.
- g) A proper investigation must be carried out about the outbuilding and its impact. As I have mentioned, the 'material' and the 'odd' shape of the structure are responsible for the noise issue **as it reverberates the noise in unpredictable and annoying ways.**
- h) The material and thickness of the walls of the outbuilding should be investigated. The outbuilding was pebbledashed on 08-10-2022 which makes it impossible to check the material. However, the picture below shows that the blocks used for building the deceptive thin wall on the left side are different from the thick blocks that are used for building the back and right side wall of the outbuilding.



- i) I have asked Fife council many times to clarify if a **Heat Recovery System**, as mentioned in the **amend warrant**, has ever been installed at no.41. I have also repeatedly asked Fife council to provide **documents** based on which they approved the Heat Recovery System for no.41 in amend warrant, but my query was ignored. Considering the distance of the dwellinghouse from its boundary (about 1meter?) and the fact that Heat Recovery System is also a **noise generating system**, finding out about it is of great importance.

1.07

...the issue of the noise is a sufficiently complex technical matter which the LRB may find difficult to properly assess without the benefit of explanation in layman's terms from a third party representative who has had no previous involvement in the application, or the history of the site, and who is suitably qualified to provide informed and unbiased advice.'

- a) I have no problem with having a qualified expert on board, however, the Scottish Government's assessment methodology for the noise impact of ASHPs is relatively easy to follow. MCS, for instance, has established its regulations in such a way that **unprofessional members of the public** can follow the assessments and if necessary, **challenge 'fabricated' assessments**. The Scottish Government Noise Assessment regulations and Fife Council Noise Guidance have clear methodologies for noise issues that are easy to follow.
- b) I have raised the issue of 'conflict of interest' many times with Fife council. So, in case more assessments are needed, the presence of an 'unbiased, qualified' representative is what I also want and have asked for since the beginning of my complaint. This person must not be like Mr Marriner who 'was employed' by no.41 just to prepare an assessment that is made up to 'prove' compliance of the installation with MCS Planning Standards.

2.01

The application 21/02318/FULL is for permission to re-position the ASHP.

The most important point to be considered in relation to re-positioning the ASHP is why no.41 decided to 'deliberately' breach the original planning permission which had a noise condition? The answer is simple: only to avoid the noise impact of the ASHP for their household. The location of the ASHP at the driveway of no.41 (19/02448/FULL) does not fall under 'permitted development' ie. not in compliance with MCS Planning Standards. The Public Protection's 'concern' about the noise impact of the ASHP and the 'NR condition' for the planning permission proves that both Fife council and no.41 were 'fully aware' of the fact that installation of the ASHP at their driveway can disturb the occupants of no.41. The fact that no.41 and the installation company (Eco Coil Heating Ltd) did not provide Fife council with MCS 'notes and calculations' for the original application proves that the only reason for breaching the original planning permission was to avoid the noise impact of the ASHP firstly for no.41.

2.02

one neighbour logged two objections

I did not log 'two objections to the proposal'. Fife council uploaded my email and my objection letter.

[the neighbour's objection contains] a number of actually incorrect and misleading claims. There is one 'incorrect claim' about the location of the water tank and one imprecise information about the time-setting of ASHP which I used as an example in my objection letter. I would like to clarify that I took the information from the brochure provided by the agent among the documents uploaded on the website of Fife council. As the brochure only had the first couple of pages of the main one, I searched for and found the complete version online. **The original brochure, however, was 'deleted and replaced by' another one sometime after I submitted my objection.** I would also like to add that the recordings that I had submitted to Environmental Health proves that I was totally aware that the ASHP does not start working at a particular set-time. As I mentioned, I used the **quotation in the brochure** as an example.

It is clear ... that the key issue ... were not whether the ASHP was supported by Planning Policy but whether or not the noise ... was causing a significant adverse impact on the community or the environment.

The Planning Policy has definitely been taken into consideration because the 'breach' is a **deliberate 'planning breach'** and 'noise' is the impact of the Planning breach. I would also like to inform the applicant that the MCS regulations are called MCS Planning Standards, and the regulations are set based on both planning and noise impact assessments.

2.03

... the Objector claimed that the ASHP did not comply with MCS Planning Standards because it was located less than one meter away from the Applicant's property boundary.

I am not the only person who has mentioned the 1m regulation. The agent of no.41 has **used the same regulation as an 'excuse' to prove that the breach was not intentional**, and to apply for a retrospective. The agent claims 'Applicant [Mrs Maureen Penman] was unaware that planning permission was required to re-position the heat pump as the new location was less than 1m away from a boundary'. **As I mentioned in my comments on Report of Handling (section A - 1.6) no one would believe that the applicant, the agent, the site manager, and the 'certified' installers were unaware that planning permission was required.**

Unlike in England, there is no requirement ...

For my important comments about the above statement, please see Section A (comments of Report of Handling - 1.7).

2.04

Fife council requested details of the installer ... the installer was, indeed, MCS certified.

- a) Fife council not only requested for details of the installer, but also for **'notes and calculations' provided by the installer (not any random company)**. According to MCS-020 'The Standard, and the notes and calculations carried out by MCS Contractors, will also be used by local planning authorities and the MCS to verify compliance'.
- b) The fact that Eco Coil Heating Ltd (the installation company) is 'certified' does not prove anything about the compliance of the installation with MCS Planning Standards. According to MCS-020 'MCS Contractors shall be under duty to ensure compliance with the MCS Planning'. It also states that 'the MCS may **impose penalties or sanctions** if an MCS Contractor fails to ensure compliance with this MCS Planning Standards **prior to undertaking an installation**'. This has been the case with SolarStucco, for instance: 'MCS has taken the decision to revoke the MCS licence of SolarStucco

following their failure to meet requested requirements from our Compliance and Enforcement Team’.

2.05

Fife council also asked for the heat pump to be re-assessed by an MCS Approved Installer.

Fife council did not ask for re-assessment by ‘a/an’ MCS Approved Installer but by ‘the’ MCS installer. It also did not ask for a re-assessment, but for the assessment to prove the compliance of installation with regulations: ‘We are therefore requesting that your MCS installer gives us feedback on this issue and confirms how the current installation complies’.

... due to lack of precision ... the applicant felt ...

The applicant/agent has no ‘skill and proficiency’ in determining the details of the situation. Her or the agent’s feelings and thoughts about the situation do not give them ‘credibility’ to change the Scottish government approved legislations and regulations.

2.07

The problem with this software is that ...

This can give rise to misleading results ...

MCS approved software is limited in its accuracy ...

The applicant and Mr Marriner (the acoustic engineer of WSP) have the right to have any ‘thoughts’ and ‘feelings’ about the regulations, but it gives none of them the rights to change the legislation approved by the Scottish Government. They only have the rights, as ordinary or skilled members of the public, to raise the issues with the Government for their future further investigations and consideration.

2.08

Taking the concerns of the Objector seriously

No. 41 never took our concerns seriously. My husband and I first approached no.41 about the noise issue of the ASHP in March and April 2021 but they only suggested that we should wear earplugs if we were annoyed by the noise. Moreover, if they had taken it seriously, they would have checked the impact of another reflective wall prior to building it. As mentioned earlier, another reflective surface might have even worsened the situations. If they were concerned about us, they would have also used the same types of cement blocks, and they would have built a thick wall, not a deceptive thin one.

... the applicant approached a specialist Acoustic Consultant ...

The applicant ‘employed’ Mr Marriner in order to provide them with a document that proves compliance of the installation with MCS Planning Standards. Firstly, it is an ‘obligation’ for the MCS certified installers (in this case Eco Coil Heating) to provide the owners and the local councils with ‘notes and calculations’ that proves the compliance, not any random acoustic company or assessor. Secondly, as this case involves ‘objection’ and ‘complaints’, ‘employing’ an assessor to prove the compliance is clearly a serious case of ‘conflict of interest’, and the ‘fabricated’ assessment provided by Mr Marriner proves the issue.

... he established an accurate ‘Q’ factor ... The result of his calculation was ...

Regarding the Q factor and the ‘fabricated’ assessment by Mr Marriner please go to section (c) Comments on the WSP Report.

2.10

... the shortcomings of the simplified acoustic principles of the MCS ... **his MCS Procedure Calculation.**

Mr Marriner has the right to 'think' that MCS principles are not accurate, but **he has no right to change these principles** to provide '**his MCS Procedure Calculation**' in order to 'achieve' the results that he has been 'employed' to provide. **It is really odd that he claims to use MCS standards but then goes on to disagree with them, change the calculation rules that are specified in MCS standards, fabricate the calculations, and misrepresent the data.**

2.11

... the Applicant thought she had provided a more reliable version of the MCS assessment

The applicant's 'thought' about **Mr Marriner's version of the MCS assessment** being **more reliable** would not change the fact that he had no right to create his own version of an approved standard that is used all over the country.

... the applicant is genuinely puzzled ... there was insufficient supporting documentation ... with regard to the installation and on-site noise assessment...

The applicant should not be puzzled at all because Mr Marriner has never ever been on site to check the installation from close. As it has been **accurately stated in the Report of Handling, the WSP memo is a 'desktop' assessment.** According to MCS regulations, the **assessor must be present on the site.** (Please go to section (C) Comments on the WSP report for more details) I would also like to refer the applicant to point 2.2.3 in Report of Handling where it states, 'a new application will not guarantee planning approval'.

2.12

... the content of a letter sent by Planning Services to the Agent on **06 May 2022** ... Have the ASHP installation re-assessed by a MCS certified installer ... we could progress the application favourably.

The planning officer's statement is 'We are therefore requesting that **your MCS installer** gives us feedback on this issue and confirms how the current installation complies.'

The full content of the email has not been provided. However, it is clear through comments of the agent in her email of 13 May 2022 that Fife council had questioned the accuracy of the WSP memo. No.41's agent states: 'Are you seriously saying that you would accept a calculation which contains an estimated factor for directivity 'Q' which could be completed by a **plumber** who is MCS Certified but **who has limited knowledge of acoustic matters**, but you will not accept a calculation **prepared** by a qualified acoustic engineer ...'

I would like to state that being a plumber or an engineer has nothing to do with the accuracy of assessments. An 'engineer' may breach codes of conduct and provide a 'fabricated and false' assessment, while a 'plumber' may follow the regulations accurately and provide a 'correct and reliable' assessment.

The agent then continues: 'I have checked this ... the software programmes ... does not allow them to use precise ... 'Q' factor ... and is therefore limited in its accuracy. ... [the applicant] has provided you with a more robust and accurate calculation ...' Again, what the agent, the applicant, an MCS certified installer, or the assessor 'believed' to be more accurate has

nothing to do with the fact that **to fill in the MCS table, any assessor MUST follow its regulations, whether they believe it is true or not.** A police officer may believe that a 30mph sign is not appropriate for a specific road, but **what he 'believes' does not give him the right** to fine people based on his 'thoughts'. The only thing that he is allowed to do is to raise his concerns with the authorities. If people decide to change the regulations based on what they 'think' is 'true', then what is the use of regulations?

2.15

Given that the applicant had submitted an accurate **version** of the **MCS Procedure Calculation...**

Firstly, the calculation is by no means 'accurate'. Secondly, there is not such a thing as a 'version of the MCS Procedure Calculation'. According to regulations, 'the installation shall be carried out in compliance with the **calculation procedure** contained in Table 2' of MCS-020.

... the council could progress the application...

Fife council has clearly stated that they could **progress** the application, which is what they did, not **approve** it.

2.16

The success of this application hinged entirely upon **the issue of noise**. The applicant took that **concern** seriously ...

It is really odd that the applicant writes as if noise is just one among many issues that may arise from the installation of ASHPs. Noise is, in fact, the main problem of ASHPs and the whole MCS compliance system has been developed over the issue of '**noise**'.

It is neither fair ... to not accept a more accurate MCS Procedure Calculation prepared by WSP in favour of a less accurate version provided by an MCS approved installer.

As clarified in section (C) Comments on the WSP report, **the WSP 'version' is by no means more accurate, but totally 'fabricated.** The agent has claimed that the installer was MCS certified. If that is the case, she should also know that it is a requirement for that specific MCS approved installers (Eco Coil Heating) to provide the owners and councils with their 'notes and calculations'.

2.18

... having provided proof ... that the installation complied with MCS ...

The installation neither complies with NR condition nor with MCS.

She was not advised that she was also required to provide evidence that the installation would comply with this condition [NR condition] as well.

As mentioned in point 1.6 of Report of Handling, **according to Fife Council Enforcement Charter 'Breaches of conditions are investigated in the same way as breaches of planning control'**. It is really odd that the applicant and the architect/agent do not know such basic regulations.

2.19

... the **predicted** indoor NR level at 39 Learmonth Place would 17 dB below the night-time limit ...

A 'predicted' NR level is of no relevance to this case. Desktop assessment is not suitable for this case, as correctly mentioned in Report of Handling.

2.21, 2.22

... proportionate and appropriate ... information

The information requested is the least necessary information that should have been provided to Fife council prior to installation of the ASHP. The applicant has, thus, done nothing to satisfy the requirements of the regulations. They have only provided some assessments that upon proper scrutiny are reflective of an attempt to falsify the reality.

3.02

Planning Authorities must support ... low carbon ... Microgeneration ... should be encouraged

The Scottish Government support low carbon policies, however, the legislations also indicate: 'Considerations will vary relative to the scale of the proposal and area characteristics but are likely to include: ... **impacts on communities and individual dwellings, including visual impact, residential amenity, noise ...**

3.03

... planning permission would only be granted for new development that incorporate low and zero carbon technologies.

The statement actually confirms that if Fife council had not approved the application for the ASHP, the whole project of demolishing the bungalow and building the new dwellinghouse would have not been approved, which, once more, raises the question of why the ASHP was originally approved without proper investigation.

3.04

... making ASHPs an energy efficient method...

There are many documents that refute this statement as ASHPs consume a huge amount of electricity, most of which is from fossil fuel. Moreover, even if one considers ASHPs energy efficient, their noise impact remains a serious issue as they are, indeed, a serious source of noise pollution.

3.06

Heat pumps have the potential to reduce carbon emission

The statement has nothing to do with the fact that ASHPs are **noise generating devices**, and that noise and amenity of neighbours are the key issues in relation to installations of them.

3.05

50 degrees + by 5 degrees ...

Constant on and off

The statement actually proves how disturbing ASHPs can be. With Scotland's outdoor temperature and water temperature being always low, the device must work vigorously all the time to keep water at 45 degrees, and the device must work much more vigorously to make it warmer by 5 degrees.

3.07

Although it is unfortunate that the latter [MCS calculation] may not have been provided prior to installation, the results of the calculation prepared by WSP are, nonetheless, still valid’.

a) The WSP report is not ‘valid’, but ‘fabricated’. Please see section (C) Comments on the WSP report.

b) It is not simply ‘unfortunate’, but it shows how inconsiderate and unprofessional the architect and the site manager acted when they decided to change the location of the ASHP. It also proves how unprofessional and inconsiderate the MCS certified installers (Eco Coil Heating Ltd) have been.

3.09

The complaint ... appears to have been raised by one member of a family of four (two adults and two teenagers) ... whether the objector’s complaint is credible and whether ... the ASHP ... constitutes a significant adverse impact on the community.

a) **One person’s life and health does matter. The noise of the ASHP has immensely impacted my everyday life, my health, my career, and my family life.**

b) The brushing reference to ‘one member of family’ is actually referring to a person who is a wife, a mother, and a full time lecturer.

c) My husband and I have two children, one of them is a ‘teenager’ and the other studies medicine at the University of Edinburgh and does not live with us anymore (except during the pandemic and some holidays).

d) **We all hear the noise of the ASHP when the windows are open.** My husband and my daughter can also hear it in the rooms facing our garden when the windows are closed.⁶ The ASHP has disturbed our normal life in different ways, but it has made me incapable of resting which is a much more serious issue than the upsetting impact that it has had on the other members of the family.

e) We had no idea that we could have objected to the installation and the retrospective application as different individuals living in one household; otherwise, we would have done so. However, my husband and I have, in several occasions, told the Environmental Health officer that the noise is disturbing all of us.

f) Even if I was the sole person living in the neighbourhood who was disturbed by the noise of the ASHP, it wouldn’t have given no.41 the right to breach the permission.

3.10

... the applicant would like the LRB to question ... the following claim ...

I stand by all my statements. The ASHPs do generate high and low frequency noise. I hear both of them even when the windows are closed. With the windows open, the noise becomes too excruciating to tolerate for me.

Please note that the air can produce noise when passing through the heat exchanger, with a variable intensity depending on the pressure. This causes buzzing sounds to be emitted and it is this **constant hum that proves to be the most disturbing** to homeowners and neighbours. The Scottish Government Noise Assessment document indicates that “A qualitative noise change may be described in various ways. Typically, a useful qualitative guide when assessing

⁶ I do not want to involve my son in this case because he is under 18.

noise impacts is whether or not there are likely to be changes in behaviour as a consequence of the noise generated by, associated with, or potentially impacting upon the proposed development, for example, will changes in the noise climate be such that **it causes people to change their behaviour by closing windows**, raising their voice **or not using their gardens as before** (point 2.3).

During the past two years, **my husband and I had to keep the windows of our bedroom shut even in hot summer nights because of the noise of the ASHP**. We all have to leave our garden in sunny days when the ASHP starts working, as it disturbs all of us.

3.11

[... whether the objector's claim would bear scrutiny.](#)

This is really interesting that the people who breached their original permission and have provided the council with 'fabricated' assessments would question my 'concerns and sufferings' as 'claims'. I have not claimed anything. My life has been turned to a hell during the past two years and I have been shouting for help desperately sending emails, filing complaints, asking MPs and Ministers about the regulations only to **have my pre-ASHP life back, to be able to sleep ONE night without the disturbing noise of the ASHP. Why should a fully functioning and responsible, wife, mother, and professional member of community want to waste so much time and energy just to make a 'claim'?**

3.12, 3.13, 3.14, 3.15

[Contrary to the objector's claim that the system must be set to start at 5pm ...](#)

The applicant questions the accuracy of my objection by explaining how an ASHP works. As mentioned in point 2.02 (comments on Notice of Review) the point mentioned in my objection letter about the technology of the ASHP was taken from a brochure in the documents uploaded on the website of Fife council. As the uploaded version had only two pages of the full brochure, I found the full version online in which **it is stated that the users can set time for the ASHP**. However, **the brochure was deleted and replaced by another one** sometime after I submitted my objection. This has also been mentioned in the Report of Handling. I used the 5am set-time as **an example**. It is worth mentioning that although the heat pump might not come on and off at an **exact** same time, there is a pattern due to the fact that, as the applicant states, ['the heat pump is set to maintain a constant temperature \(50 degrees\) ... given ever changing, daily weather patterns and temperature'](#). Late evenings, midnights and early mornings are the times that the temperature drops down. All my detailed explanations to officers of Fife council and an extensive amount of audio and video recordings that I have gathered at different times of day and night proves that the noise is seriously disturbing from around 10:30 to 7:30 because of the temperature being low and because the environmental noise decreases, and the device works more constantly and vigorously throughout the night.

3.16

[The Town and Country Planning Act ... requires LDP policies for emissions reduction of new buildings through the use of renewable energy technology.](#)

The fact that the Scottish Government is promoting green sources of energy does not give people the right to install and use such devices in a hazardous manner.

[\[ASHPs\] are commonly very quiet in operation ...](#)

As I mentioned earlier, it is not just the **volume**, but the **high and especially low frequencies** that disturb many people. If the applicant believes that ASHPs are quiet, why did they change the location for which they had a planning permission? Why did they build thick walls on their side? Why don't they install the ASHP in their driveway so that **they can enjoy its 'very quiet operation' and the cold air that the condenser blows out while having a cup of tea or a glass of drink in their garden**. They can also enjoy the ASHP's constant humming noise throughout the night. The fact that the walls on no.41's side are thick clearly shows that the architect, the builder, and the installers wanted to fend off the noise from no.41 without even thinking about our household.

The statement also does not change anything about the noise impact of ASHPs. I can provide you with many comments of many people who are disturbed by the noise of ASHPs.

4.3

[... these comments are assumptions based purely on observations made by the objector ... there is no evidence that any disturbance is coming directly from the ASHP ...](#)

I am astounded by the applicant's or her advisor's level of 'entitlement' and egotism. This is absolutely shocking that they believe they are the only people who are 'right', and others only 'claim' and have wrong 'assumptions'.

I would like to let the applicant know that **GPs do not write letters just upon request**. My case has been investigated thoroughly by my GP. For the information of the applicant, there is 'evidence' for my 'claims' that proves **the cause of all my distress is the noise of the ASHP**.

5.02

[The position of the heat pump was moved during the construction ...](#)

As I mentioned in my Objection Letter, all the reasons that the agent has provided in the retrospective application are 'false and misleading justifications'. There is no valid reason for their 'deliberate' breach. The reality is that the architect, the site manager, and the installers were all aware of the noise impact of the ASHP on the residents of no.41. So, only and only to fend off the noise for themselves, they decided to 'deliberately' breach the planning permission and change the position of the ASHP, without even thinking about the noise impact of the device on my household.

5.03.02 ASHPs are encouraged ...

ASHPs are encouraged as green sources of energy, **not sources of noise pollution** due to erroneous installations.

5.03.03 [the ASHP was] installed by an experienced and MCS certified installer.

The fact that an MCS certified installer installed the device does not change anything about the installation. MCS has removed some of its certified installers from its list just because they have breached the MCS Planning Standards.

5.03.04 ... the predicted noise emitted ... complies with the 42.0 dBA ...

The installation is not in compliance with regulations as calculation provided by the applicant is fabricated.

5.03.05 ... the applicant provided evidence that the noise ... should not exceed the NR25 and NR30 ...

The applicant has not provided any evidence about the NR level. All they have put forward as 'evidence' is a 'predicted' NR level by the same person who has provided the 'fabricated' calculation and has never been present on-site.

5.03.06 ... the sole objector ...

The fact that I am the sole objector does not change anything about the noise impact of the ASHP.

5.05

One individual has objected to application ...

One individual's life and health does matter, although as I explained earlier, the noise has impacted all of us.

... the nature and volume of complaints ... about noise ... qualifications and actions of various parties involved ... obfuscate the key issue ...

The applicant is in no place to question my actions. The people and institutions to whom I have raised my concerns and complaints are capable of defending themselves. I believe this case was handled with utmost negligence and discrimination, hence my complaint to Ombudsman. I strongly believe that instead of closing my original complaint case without any investigation, or taking 20 months to reach a conclusion, Fife council should have issued a proper 'notice' 20 months ago when I first raised my concerns to them. The applicant should be reminded that as the breach is a 'deliberate' one and was just done to fend off the noise from no. 41, I have every right to question the people who are involved in the case. I have every right to contact councillors and MPs to raise my concerns. I have every right to contact the company whose employee has provided fabricated assessments. I have every right to find out about the installation company and the installers of the ASHP.

5.07

The applicant is certain that the ASHP ... does not give rise to unacceptable noise levels.

How can the applicant be 'certain' about the noise impact of the device? Does she get her assurance from the 'fabricated' calculations or 'predicted' NR level? Does she get her assurance from the 'assumptions', 'feelings', and 'thoughts' of the architect and site manager that the new location of the ASHP is a better location?

C) Comments on the WSP Report

The ASHP is boxed on five sides (back, top, ground, left, and right). According to MCS Planning Standards "ASHPs with more than three reflective surfaces will not meet the MCS Planning Standards" (MCS 0-20). So, any assessor who follows the MCS regulations would have stopped the calculation at Step 2 because the ASHP has **five reflective surfaces**.⁷ Mr Marriner, however, claims that "the effect of the side walls of the shelter have a negligible effect on the sound propagation compared to if they were not present". He claims that the two side walls are not large enough to be considered as reflective surfaces. He also seems to have used the same excuse for the top reflective surface, because he has calculated the Q-number of the ASHP as 4.007 which is very close to Q-number 4 that is used for ASHPs with two reflective surfaces. According to MCS Planning Standards, the Q-number for ASHPs with two reflective

⁷ By having a closer look at the outbuilding, one can see that it has **seven reflective surfaces**.

surfaces should be calculated as 4, and for the ones with three reflective surfaces the Q-number should be calculated as 8.

Mr Marriner's claim about the size of the reflective surfaces is totally wrong because according to MCS Planning Standards, "a reflective surface is any surface (including the ground) within 1 meter of the ASHP". MCS also confirms that "There is no reference to the size of reflective surfaces in MCS 020". So, although the ASHP has 5 reflective surfaces, and all of these surfaces are less than 1 meter from the device (most of them much less), Mr Marriner has decided that the ASHP has only 2 reflective surfaces, hence the Q-number 4.007. It seems that for Mr Marriner three out of 5 reflective surfaces have 'negligible effect on sound dispersion'.

For calculating Step 3, Mr Marriner has put 9 meters. According to MCS "where a precise distance is not indicated in the table (note 4), then the next lowest value for that distance should be used". There is not a distance of 9 in the MCS table, therefore the lowest value for that distance should have been used which is 8, not 9.

The same is true about Step 4 for which Mr Marriner has put down "-24" while there is not even a number (-24) in the MCS table.

According to MCS, for calculating Step 5, the assessor must be present on site to check different possibilities for this section (barrier between ASHP and the assessment position). According to the WSP report and Ms Louise Beamish's confirmation, the assessor has never been to the site to see the installed device from close and check the material and thickness of the walls surrounding the ASHP. The assessor has only "reviewed photographs, measurements and background information in relation to the ASHP". Mr Marriner was supposed to be present at the site to check the details of the installation, but he took it upon himself to disregard this and fill the form anyway. He has also clearly used double standards in his calculation: while he claims that the side walls and the top wall of the shelter are non-reflective surfaces (hence Q-number 4.007 for Step 2), for calculating Step 5 (solid barrier) he puts (-10) in the form which is for 'a solid barrier that completely obscures an MCS contractor's vision of an assessment point'. In other words, he does not include the walls as reflective surfaces in his calculation but counts them as solid barriers.

MCS has certain rules for calculating the compliance of installation of ASHPs, and Mr Marriner has clearly made up his own rules to fill in the assessment form. He has deliberately 'misinterpreted' the regulations to get the result that he wanted to achieve. Rather than reading MCS regulations for what they clearly state, he reads the regulations the way he likes them to be. It is really odd that he claims to use MCS standards but then goes on to disagree with them, change the calculation rules that are specified in MCS standards, fabricate the calculations, and misrepresent the data.

Mr Marriner's calculation of the 'predicted' NR level is absurd and of no value. In the email dated 19-12-2022 (Notice of Review) he states: '[There is no direct relationship between dBA and NR units, but section ... states that the following approximate relationship applies in the absence of strong low frequency noise ...](#)'.

- a) The **low frequency noise** of ASHPs is a major issue with the device. So, the low frequency does exist, and therefore the formula is of no relevance.
- b) A desktop calculation is of no value with this case.
- c) It is not clear why instead of 42dBA, Mr Marriner has used 29dBA for his calculation.

D) Conclusion

I consider myself a good citizen, and a kind, considerate, and patient person, and I believe what I and consequently my whole family have been through during the past 2 years is neither fair nor justifiable.

No.41 breached their planning permission 'deliberately' and with no valid reason. They, then, concealed the unauthorised development by providing false reasons and justifications.

Fife council's Planning Services approved the original planning application (19/02448/FULL) without proper investigations despite Environmental Health 'concerns'. Instead of asking for noise assessments for the original application, Environmental Health only added a 'condition' to a potentially problematic application.

Instead of issuing a 'proper notice', despite the fact that the breach was 'intentional' and the fact that Environmental Health had approved high NR level for the ASHP, Fife council validated the retrospective application (21/02318/FULL). As no.41 had confirmed that the installer was MCS certified, Fife council was supposed to ask for 'noise assessments' provided by the installers prior to validating the retrospective application.

I support Fife council's decision in refusal of the application, and considering the level of 'harm' caused by the noise of the ASHP, the 'length of time' that has taken Fife council to reach to a conclusion, the fact that the 'breach' of the planning permission (19/02448/FULL) was 'deliberate', the absolute negative visual impact, and other issues that I raised in my comments, I request for the removal of the ASHP from its current location to the location for which a planning permission already exists (driveway at no.41).

I do not want an extraordinary thing from Fife council. I want the pre-ASHP peace and quiet of my life back. I want to be able to sleep in my bedroom without the constant torturing humming and buzzing noise of the ASHP. I want to be able to sleep in my bedroom with the windows open. I want to be able to do meditation and yoga in my back garden, as I used to. I want to be able to read a book in a sunny day in my back-garden without the annoying noise of the ASHP. I want to be able to use my home office. I want to feel happy and healthy, be the wife, the mother, and the colleague that I used to be.

Finally, I believe if people were only 'just' rather than 'justifying' the issues, all the problems would have been solved much easier.

Thank you for your time and consideration.

Parmis Mozafari

18-01-2023

Agenda Item 5(6)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

Response to further representations

Sunshine Design and Planning

Wester Balbeggie Farm, Kirkcaldy, Fife, KY1 3NS

Tel.: 01592 630241 Mob.: 07917 890 715 Email: mary@sunshinedesignandplanning.co.uk



P1.19.02/mm/3.2

24 January 2023

FAO. Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council,
Fife House, North Street
Glenrothes
KY7 5LT

Dear Ms McDermott,

LRB Appeal – Planning Application Ref. No.: 21/02318/FULL

41 Learmonth Place, St Andrews, Fife, KY16 8XF

With regard to the above-noted planning application, we hereby respond to the comments made to the Local Review Body by the Objector at 39 Learmonth Place as follows:

1. The Applicant did not deliberately conceal the development and has not provided false information in respect of it. The ASHP position approved under Planning Consent reference 19/02448/FULL was not re-located in order to avoid the noise impact on the Applicant's property at 41 Learmonth Place. It was re-positioned in order to ensure better space for access and parking.
2. The Air Source Heat Pump was installed by an MCS Certified Installer. This fact has been checked and verified by Fife Council.
3. WSP's version of the MCS Procedure Calculation is not a "totally fabricated" assessment as claimed by the Objector. Instead, it is a more precise version of the MCS Procedure Calculation, provided by a Qualified Acoustic Engineer. This is standard practice when assessing Air Source Heat Pumps, particularly when the software used by MCS Approved Installers is not sophisticated enough to provide accurate results based on site specific measurements. Reports such as that submitted by WSP are commonly used when applying for planning consent to install Air Source Heat Pumps. It is both fair and reasonable for Applicants to employ the services of a Qualified Acoustic Consultant in cases where the MCS Procedure Calculation software is not truly reflective of site conditions.
4. In response to objections to the noise calculations, please note that WSP is a reputable and highly respected international engineering company. The acoustic engineers involved in the work are suitably qualified to make the associated technical judgements and are active members of relevant industry bodies.
5. The predicted indoor noise level at 39 Learmonth Place attributed to the ASHP installed at 41 Learmonth Place is NR 8. This is **17 dB below** the night time limit (NR 25) stipulated in the noise condition attached to planning consent 19/02448/FULL. With this in mind, WSP advises:

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*“Sometimes it can be useful to measure noise levels in-situ after a development is complete, particularly if the predictions were very close to the criteria. However, in this case we predicted the ASHP to be **17 dB below** the criterion.”*

ADDITIONAL COMMENT

6. In the interests of fairness and equality, the Agent points out that the Applicant was a wife (widowed 2009), is a much-loved mother, grandmother and great grandmother. She is a retired company director and a well liked and respected member of the local community who seeks approval to complete the development at 41 Learmonth Place. Despite what the Objector implies, the Applicant, her family, the heat pump Installer, the Acoustic Engineer, Planning Authority and Agent are not all deceitful, incompetent or, in some way, “bad” people who have deliberately set out to upset the Objector.

In light of the foregoing, and with reference to all of the information previously submitted for consideration, the Applicant trusts that the Local Review Body will use their best endeavours to assess this appeal fairly and properly in line with planning policy.

Yours sincerely

Mary E Murray (RIAS, RIBA)
Proprietor

CC Mrs M Penman, Mrs J Downie & Mr J Penman (by email)

Agenda Item 5(7)

**41 Learmonth Place, St. Andrews, KY16 8XF
Application No. 21/02318/FULL**

**Comments on National Planning
Framework 4 (NPF4)**

Sunshine Design and Planning

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P1.19.02/mm/3.2

23 March 2023

FAO. Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council,
Fife House, North Street
Glenrothes
KY7 5LT

Dear Ms McDermott,

LRB Appeal – Planning Application Ref. No.: 21/02318/FULL

41 Learmonth Place, St Andrews, Fife, KY16 8XF

With regard to the above-noted planning appeal, we hereby respond to the comments made in the LRB Planning Advisor's NPF4 Position Statement as follows:

The LRB Planning Advisor's NPF4 Position Statement clearly demonstrates that air source heat pumps are acceptable and that they are actively encouraged in terms of planning policy as long as they do not result in unacceptable residential amenity impacts or detrimental physical impacts on the amenity of neighbouring properties. The NPF4 Position Statement claims that the Applicant did not provide sufficient information to determine whether the potential noise implications would prevent unreasonable noise impacts to the amenity of neighbouring residents. This claim is simply **not true**.

Detailed technical assessments of noise from the ASHP, demonstrating that the noise output complied with the assessment methodology requested by the Planning Officer, were produced by WSP and submitted to Fife Council by the Applicant.

The Planning Officer also referred to the noise condition attached to planning consent 19/02448/FULL which included noise limits for the ASHP that apply during the daytime and night-time. The daytime limit is less onerous so can be disregarded in this instance. The night-time limit requires noise from the ASHP to be no more than NR 25 inside bedrooms at night, with the window open. For context, recording studios, where background noise needs to be especially quiet to obtain good recordings, would typically be designed to have a background sound level of around NR 20. NR curves increase in intervals of 5, so the Fife Council criterion can be viewed as being one curve higher than a typical recording studio.

It is noted the same NR 25 noise limit has been applied on various other consents for similar plant within Fife **and elsewhere in Scotland**. It is reasonable, therefore, to assume that Fife Council considers this planning condition to be sufficient to avoid the adverse impacts described in the LRB Planning Advisor's Position Statement.

When /...

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When noise from the ASHP was assessed by WSP, Fife Council were advised that a sound level of NR 8 was predicted inside the bedroom of 39 Learmonth Place at night, with the window open. **This is 17 dB lower than Fife Council's criterion**, which acoustically speaking is a **substantial margin**. Subjectively, it is equivalent to being about **three times quieter** than is required by the condition. Consequently, the outcome of the WSP assessment can be interpreted as being three times quieter than the level at which Fife Council considers there will be no adverse noise impacts.


The Applicant requested in clause 1.06 of the LRB Appeal Statement that an independent acoustic technical specialist be appointed to advise on this matter (under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013). Judging by the content of the Planning Advisor's NPF4 Statement, it appears that no specialist has been appointed. Assuming the LRB Planning Advisor is not a Qualified Acoustician, the Applicant is adamant that it is neither fair nor possible for the Planning Advisor to assert that the Applicant has not provided sufficient information to "*determine whether the potential noise implications would prevent unreasonable noise impacts to the amenity of neighbouring residents*".

Crucially, the Applicant has also requested a site visit be conducted by the Local Review Body. No such visit has been recommended by the Planning Advisor. Since this appeal refers to an existing installation, the Applicant contests that it is simply **unfair** for the Planning Advisor to expect the LRB Members to make a **proper and reasonable** assessment of this case without visiting the site and listening to the air source heat pump from a distance of 9 metres away from it in a northerly direction towards the property at 39 Learmonth Place; given that this is the only neighbouring property from which a complaint has been submitted.

The Applicant is extremely concerned that Fife Council have been bombarded by complaints by one person residing at 39 Learmonth Place and appears to have been bullied into a position regarding this appeal which is not adequately defended. The Applicant's rights under all relevant planning legislation must not be denied because one person, who may be hyper-sensitive to noise, has made repeated threats and claims which do not correlate with the technical assessments prepared by a qualified acoustician and submitted by the Applicant.

In summary, the Applicant asserts that the acoustical information already provided demonstrates robustly that the ASHP should not cause any unacceptable noise impacts upon the amenity of neighbouring properties and, in particular, that at 39 Learmonth Place.

Yours sincerely


Mary E Murray (RIAS, RIBA)
Proprietor

CC Mrs M Penman, Mrs J Downie & Mr J Penman (by email)

Fife Council Economy Planning and Employability Services/23/03/2023

Page 2 of 2

For the kind attention of the LRB committee,

I would like to thank the LRB Planning Advisor for their comments and add the following notes specifically because the applicant's agent may try to justify the breach by stating that the NPF4 was adopted on 13th February 2023 or by claiming that they were unaware of other related building and planning regulations.

1. The issues of amenity and impact of developments have been mentioned in Fife Council's Planning Policy for Development and Noise 2021. They have also been clearly mentioned in the original planning application 19/02448/FULL, section 4.02.08, Policy 11: Low Carbon Fife states: 'with reference to the Climate Change ... Incorporate renewable energy technologies which do not result in unacceptable impacts'.
2. The applicant, the site manager/builder [REDACTED], and the current resident of the property [REDACTED] are all 'active' members (directors) of [REDACTED] building company,¹ so it is impossible that the applicant and/or her advisors have been unaware of building and planning regulations (including the ones mentioned above), breach of planning permission and the noise condition, and the consequences of 'breaching' the planning permission and the noise condition.
3. I plead to the LRB committee members to consider the proposed development not as a simple retrospective application for an existing ASHP, but as a serious breach of planning permission and the noise condition for the whole 'project' at 41 Learmonth Place. Policy 11 (Low Carbon Fife), and other planning policies, was 'used' by the applicant/agent to 'justify' the whole project that included demolishing the bungalow, building a new dwellinghouse, increasing the green area of the house, and installing green sources of energy (ASHP and solar panels).
4. Considering that 'demolishing and rebuilding creates double emissions', the fact that no.41 has eliminated every single inch of green in breach of their planning permission,² the fact that they have increased the rate of surface water runoff by adding a third parking space and constructing an outbuilding,³ the amount of time and energy that the breach has taken of different individuals and institutions, I would like to request the LRB members to look into the matter in light of all the breaches that no.41 has made.⁴

Thank you for your time and consideration.

Parmis Mozafari

30-03-2023

¹ [REDACTED] is a building company founded in 2001. The Nature of business (SIC) is mentioned as 41100 - Development of building projects and 68100 - Buying and selling of own real estate.

² According to the planning permission (point 7.03.26) the Green infrastructure was supposed to be 'enhanced by an increase in grassed area from 29m² as existing to 86 m² as proposed'. Except for a few plant pots, there is no green area at no.41.

³ There is no green area at the back-garden. The whole front garden has been demolished and covered with non-porous material. The roof area of the outbuilding is more than 8m² and has no drainage channel to the side of its slope (the fence of my back garden).

⁴ Apart from the breaches mentioned, one may also consider the height of the building and its street elevation (sunlight/daylight impact of the new dwelling house on 39 Learmonth place).

For the kind attention of the Local Review Body,

I would like to confirm that I strongly stand by all my comments about (a) the retrospective application in my letter(s) of objection, (b) the Report of Handling, (c) the Notice of Review, (d) the WSP Report, and (e) the Planning Advisor's original comments on NPF4¹. I would also like to confirm that I strongly support the refusal of the application and plead that the ASHP be removed from its current location to the place for which there already is a planning permission.

I have provided my comments as a PDF file in 10 pages and four sections: (1) Atkins Peer Review Memo, (2) Public Protection's Appeal Consultation, (3) Planning Advisor's Updated comments on NPF4, and (4) Further Comments. My main arguments are highlighted in grey.

1. Atkins Peer Review Memo

1.1. A Desktop Review

Atkins review is a 'desktop review' that tries to **justify** a 'desktop calculation' (WSP). According to MCS Planning Standards the presence of the assessor on site is necessary which makes both the WSP assessment and the review invalid. Mr Treadwell's approach in using a desktop review for **an already problematic desktop assessment** is wrong. It should also be mentioned that according to the applicant, **the WSP memo is Mr Marriner's version** of the MCS procedure calculation, not the exact MCS calculation. Therefore, the Review of the WSP memo has the same shortcomings of the memo.

Moreover, the Report of Handling states: "... given the nature and extent of the complaint, the ASHP should have been re-checked for errors, and an extended site survey and noise monitoring should have taken place so that any particular features of the installation or site which may contribute to the noise concerns could have been assessed and considered at source. All of these assessments are the responsibility of the applicant and not Fife Council, and as such it is the view that the application submissions have failed to satisfactorily address Residential Amenity concerns in terms of Noise".

So, while there are 718 MCS certified installers in Scotland who could have assessed the memo and carry out a proper investigation, it is not clear why Mr Treadwell has asked for a 'desktop review'. It is good to know that there are 13 MCS installers within 20miles of St Andrews: 3 in Cupar, 4 in Dundee, 4 in Glenrothes, etc. It is also worth mentioning that Fife council itself has an MCS certified unit called 'Fife Council Building Services' (Certification Number: NIC-1702) with Mr Allan Barclay (service manager at Fife council) as its installer.

¹ I would also like to confirm that I stand by all the issues that I raised in my extensive correspondence with officers/departments of Fife council during the past two years, and I am happy to share details of all of them with the member of the LRB committee, if necessary.

Having said that, I wish to highlight the policy that specifies **all MCS certified installers are obliged to provide local councils with notes and calculations**. So, if, as claimed by the applicant, Eco Coil Heating is the installer, only they, not any other company, must provide Fife council with notes and calculations.

1.2. Why Atkins among all the Companies?

There is no solid and valid reason for choosing Atkins. According to Mr Treadwell, “Atkins Ltd were selected on the basis that they had the highest commercial and technical score within the Scotland Excel Framework”. This is a poor criterion for a company that is supposed to check the accuracy of a noise assessment. Atkins is a **design, engineering and project-management consultancy company which does not even have an acoustic section**. There are reliable acoustic institutions such as **ANC** (acoustic and Noise Consultants) or **IOA** (Institute of Acoustics) that Fife council could have consulted.

The name(s) of the assessor(s) of Atkins have also been redacted which makes it impossible to check their **proficiency, specialty, and membership status**. I asked Mr Treadwell for clarifications, to which he responded “I would direct you to Atkins Ltd to enquire about the individual who undertook the assessment. As they are not a Fife Council employee, it would be a matter for Atkins Ltd to advise you on”. This is absurd. Fife council officers did not fulfil their responsibilities; they did not provide assessments and responses that they were supposed to provide; Fife council then asks a random company (Atkins) to do what its employees and experts were supposed to do. If Fife council wants to use Atkins review, they should clarify and confirm the proficiency of the people who provided the Review. It is not my job to check these people’s proficiency. Nevertheless, I would like to mention that Atkins is not a member of ANC (acoustic and Noise Consultants).

1.3. Where are the officers of Fife council?

Fife council officers not only have been **unavailable and absent throughout the whole building project at no.41**, but they have also been **unavailable for assessing this specific case**. According to Ms McDermott “This independent advice [Atkins Review] has been obtained by the LRB Planning Adviser **as a result of Fife Council’s Protective Service specialists not being available to provide a response on this specific issue at this time**”. My queries regarding the number of ‘specialists’ who work for 'Fife Council’s Protective Service', and the reason why all of them were unavailable has remained unanswered.

In the Consultation email, Mr Gallacher (Environmental Health/Public Protection) confirms that he does not have **a detailed knowledge or understanding** of MCS Planning Standards because EH do not enforce or apply them, and that it is not appropriate for EH to comment on the information provided by the applicant in relation to compliance of installation of the ASHP with MCS Planning Standards. He also confirms that he had discussed the issues with Planning “at the time of the application”. So, it is not clear why Fife council did not consult with another officer. Does this mean that since 8 February 2022 Fife council could not find

any of its officers to assess the accuracy of documents provided by the applicant? Does Fife council have any officers who are capable of assessing the accuracy of MCS calculations at all?

1.4. The Review has false and biased justifications

Reflective Surfaces and the Q number

According to Atkins, “Q factor ... account[s] for the ... the sound energy towards the nearest sensitive receptor by having reflecting surfaces **under or behind the ASHP**, as shown in Note 3 of the MCS standard”. This is totally wrong. According to MCS “a reflective surface is **any surface** (including the ground) **within 1 meter of the ASHP**”, and the picture in Note 3 shows examples. It does not mean that the reflective surfaces are only the ones under and behind the ASHP.

According to Atkins, “the number of reflecting surfaces will only increase the noise at the receptor if the additional reflecting surface reflects the sound towards the receptor”. This has absolutely nothing to do with MCS Planning Standards and how the assessors should calculate the noise impact. I refer you to this video that shows how the MCS table must be filled in: <https://www.youtube.com/watch?v=tXO3Aajcb-0>

Atkins also states: “The front fan of the ASHP is in line with the small side walls, and these will have negligible effect on the determination of the Q factor”. Atkins, like WSP, makes up its own regulations for already established regulations (MCS) and decides that the ASHP has only 2 reflective surfaces (Q factor 4). What is interesting is that even if one ignores the two side walls, the number of reflective surfaces for the ASHP is 3 which results to Q factor 8, not 4. The reality, however, is that **the ASHP has 5 reflective surfaces** because MCS confirms that “There is no reference to the size of reflective surfaces in MCS 020”².

Atkins, like WSP, completely ignores the fact that by thickening the side wall on their own side, no.41 has fended off the noise of the device for its residents without even thinking about others. The deceptive thin wall on my side, which was built after I filed my complaint to Environmental Health, proves that amenity of others is of no value to those who designed carried out the installation.

By referring to only the ‘front fan’ Atkins prove that they are not aware of the basics of ASHPs. Atkins should be reminded that the fans are not the only source of noise for ASHPs. Here is what Atkins needs to learn:

Heat pumps can be noisy due to their components. The four main elements of the heat pump – compressor, AC condenser, expansion valve and evaporator – can be heard when operating but **the compressor and fan in particular may cause noise concerns.**

The noise includes not only the sounds of the components operating but also the vibrations. The air can produce a noise when passing through the heat exchanger, with a variable intensity depending on the pressure. **Buzzing sounds can be emitted from**

² A close inspection even proves that ASHP has 8 reflective surfaces.

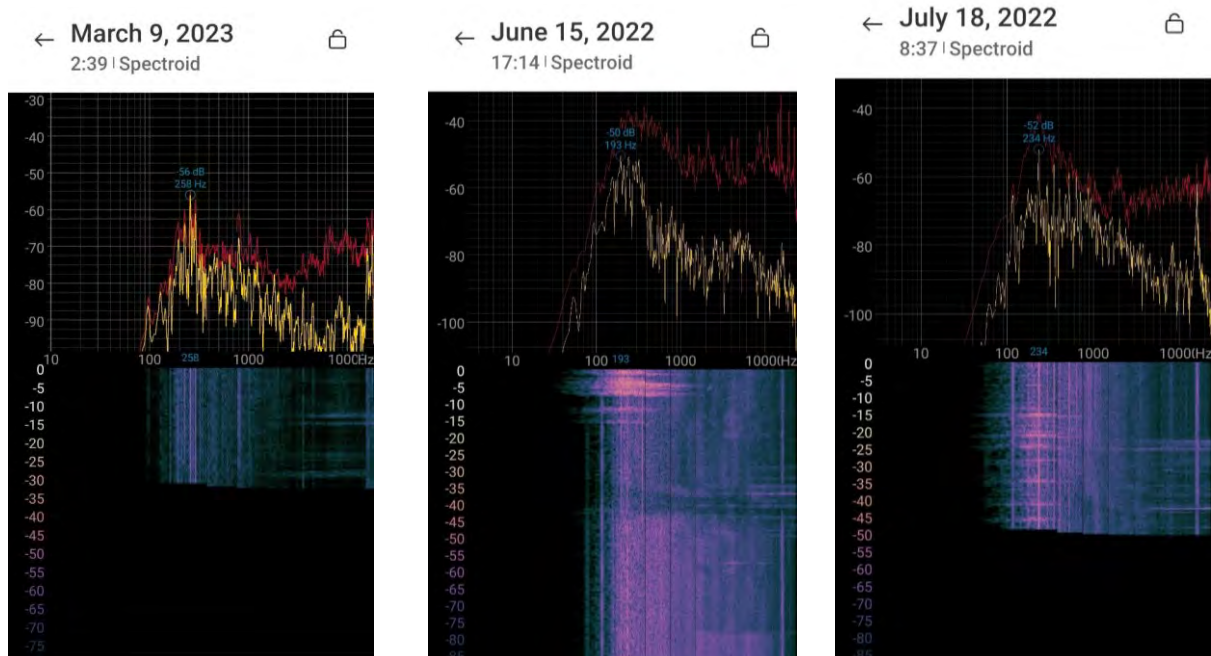
the AC unit and heat pump and the hum of the motor. If frost accumulates in the heat exchanger, this can produce further sounds on top of the existing fan noises. **A constant hum can be the most disturbing aspect of heat pumps.**

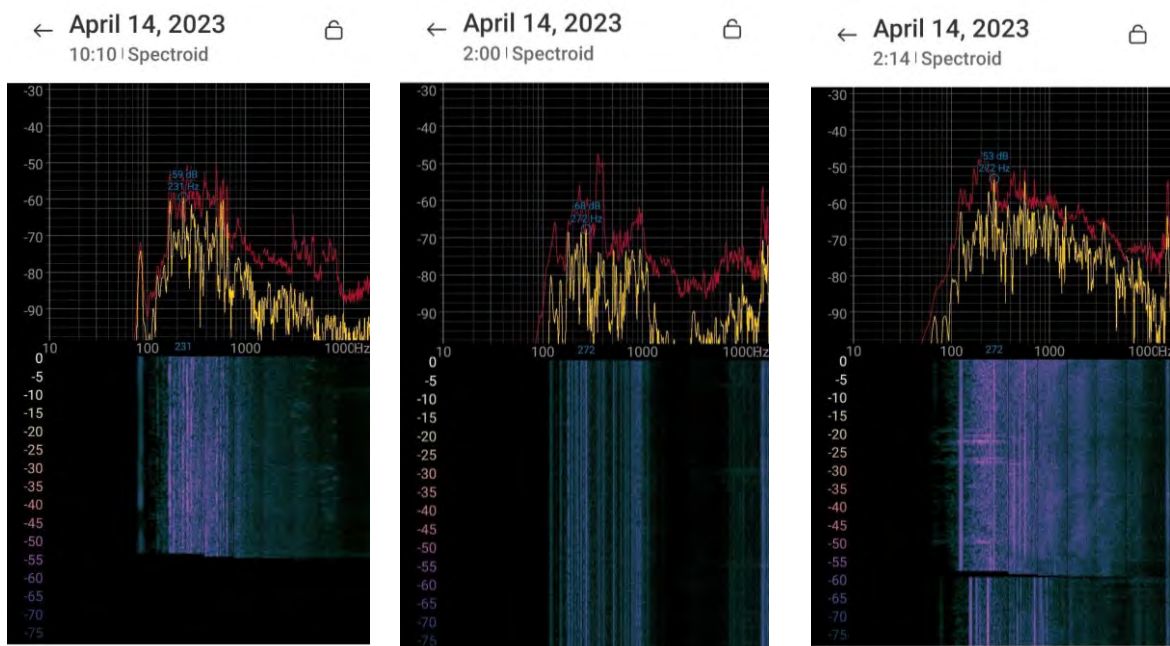
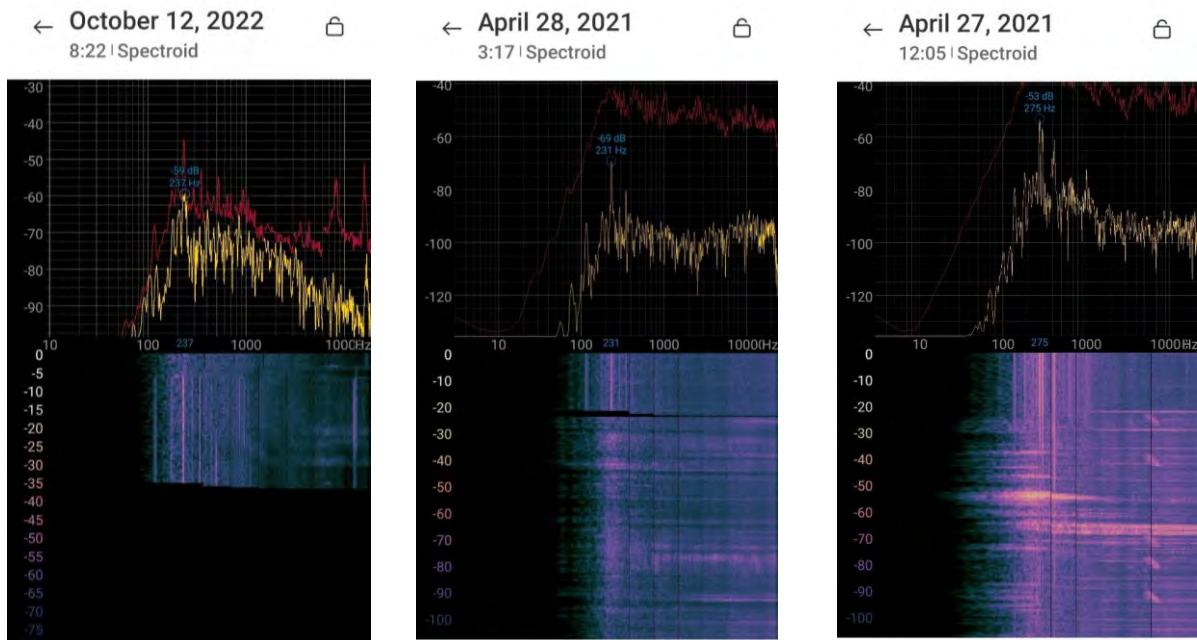
Please listen to audio files provided. The quality is not good because I recorded them using my mobile phone, but it may clarify how disturbing the device is.

Predicted NR Value

Not only the 'predicted' NR 8 is false, but also providing such a 'prediction' where the real NR has been measured by Public Protection officers is meaningless. As mentioned by the applicant's agent "recording studios ... would typically be designed to have a background sound level of around **NR20**", so NR8 at neighbouring areas of an ASHP is impossible to achieve.

As a result of its biased approach, Atkins simply accepts Mr Marriner's calculation which is applicable only 'in the absence of strong low frequency noise'. I would like to draw the attention of the committee members to the fact that **ASHPs constantly generate Low Frequency Noise**, so using a formula that only works in the absence of strong low frequency noise is wrong. Moreover, **neither WSP nor Atkins provided any proof of absence of (strong) low frequency noise**. Please see the following images that proves presence of low frequency noise which proves the NR value is much higher than the predicted one.





2. Public Protection’s Appeal Consultation

The Consultation email is vague. It states, “Should the **predicted noise level** provided by the applicant be achieved at the complainant's property, it is likely that the applicant would comply with the noise”. According to WSP the predicted NR value for night-time is **8**.

- Does the statement mean that if the **NR8** is achieved, the applicant will comply with the noise condition, but if the NR is more than 8 then it would not comply?

- Does the statement mean that WSP's desktop prediction and ATKINZ's desktop review prove that the applicant has already achieved the compliance, or does it mean that Protective Services will check the compliance of the predicted NR level? If the latter, when?

In response to my queries for clarifications about the content of Mr Gallacher's Consultation, Ms McDermott writes (email 11-04-2023): "I regret to advise that **it would be inappropriate for the Council's Protective Services to provide you with private specialist advice on an independent report** [Atkins memo] that was sourced by the Planning Adviser [Mr Iannarelli] to the Local Review Body". However, **Mr Gallacher's consultation email has nothing to do with Atkins Review** because the email was sent 24 days prior to the date of Atkins report, and it is only about the Mr Marriner's 'predicted NR value'³.

According to WSP "in the absence of strong low frequency, noise $NR \approx dBA - 6$ " which will result to a predicted NR8 at my property. So, Public Protection should clarify the followings in relation to the 'predicted NR value' by WSP and the Atkins Review: What is the exact meaning of 'strong low frequency'? Does Public Protection have proper equipment to measure and record Low Frequency noise? Does Public Protection have officers who are capable of working with the equipment? Has Public Protection carried out investigations and assessments about the absence or presence of Low Frequency noise at the neighbouring area around the ASHP?

British Standards 8233:2014

The Consultation email states: "Ideally a frequency analysis of the noise associated with the Air Source Heat Pump would have been undertaken to determine the Noise Rating value. However, a predicted noise level has been provided and reference is made to Section 7.4 Noise indices British Standards 8233:2014".

I would like to quote the followings from the **British Standards 8233:2014** which have been overlooked by WSP, Atkins, and the consultant.

- **Use of this document:** As a guide, this British Standard takes the form of guidance and recommendations. It should not be quoted as if it were a specification or a code of practice and claims of compliance cannot be made to it.
- **Introduction:** ... However, it is necessary to remember that people vary widely in their sensitivity to noise, and the levels suggested might need to be adjusted to suit local circumstances.
- **Scope:** This British Standard provides guidance for the control of noise in and around buildings. It is applicable to the design of new buildings, or refurbished buildings undergoing a change of use, but does not provide guidance on assessing the effects of changes in the external noise levels to occupants of an existing building.

Section 7.4 of British Standards 8233:2014, advises that the following approximate relation applies, in the absence of strong low frequency, noise $NR \approx dBA - 6$. However, the next

³ The consultation email was sent to Mr Iannarelli on 06-03-2023. Mr Iannarelli emailed the same email to himself on 31 March.

paragraph states “Although the NR system is currently a widely used method for rating noise from mechanical ventilation systems in the UK, other methods are also available that are more sensitive to noise at low frequencies. **Low frequency noise can be disturbing or fatiguing to occupants, but might have little effect on the dBA or NR value**”.

It would have been fair if WSP, Atkins, and the Consultant also had referred to the followings:
- **3.1.28.2 structure-borne noise:** ... audible noise caused by the vibration of elements of a structure, the source of which is within a building or structure with common elements.

3. Planning Advisor’s Updated Comments on NPF4

The LRB Advisor’s Updated Comments are prepared **carelessly**. The comments are based on an invalid, desktop Review (Atkins) for another desktop assessment which was clearly fabricated to fulfil the purpose of its client (WSP) and has been disapproved by the Planning officers. It is also based on the consultant’s evaluation for a ‘predicted’ calculation rather than onsite assessments⁴.

The LRB Advisor’s Updated Comments are prepared **hastily**. The advisor uses the Atkins Review which has been provided on 30-03-2023; re-sends the Consultant’s email of 06-03-2023 to himself on the 31-03-2023 at 10.44; and changes his statement in less than 24 hours as the Updated Comments were sent to us on 31-03-2023 at 5:09 pm.

I would also like to refer the members of the LRB committee to my comments for the original Planning Advisor’s Comments on NPF4 (Dated 30-03-2023, uploaded on Fife council website On 03-04-2023). **I stand by all my comments written there** especially the followings: (a) the fact that policies similar to NPF4 in relation to amenity and impact of developments have been mentioned in Fife Council’s Planning Policy for Development and Noise 2021; and (b) the fact that Policy 11 (Low Carbon Fife), and other planning policies, were ‘used’ by the applicant/agent to ‘justify’ the whole project that included demolishing the bungalow, building a new dwellinghouse, increasing the green area of the house, and installing green sources of energy (ASHP and solar panels).

4. Further Comments

4.1. Planning Permission for the ASHP (19/02448/FULL)

I have raised my concerns regarding the negligence of Fife council for the original planning permission for the ASHP. According to Mr Bryan Reid, the officer who approved 19/02448/FULL states: “it is for the Planning Authority to determine whether or not a noise

⁴ The original LRB Planning Adviser’s NPF4 Position Statement was prepared on 13-03-2023. The Consultation email of Public Protection was sent to the Advisor (Ms Turner and Mr Kerr copied) on 06-03-2023. So, the Advisor could have used the consultant’s views for his original comments. It is not clear why he waited 24 days to use them for his updated comments.

impact assessment (or notes and calculations) is required for an application for planning permission on a case by case basis. On this [occasion 19/02448/FULL], it was considered that **such an assessment was not necessary and the information provided by the applicant was sufficient to determine the application**".

This is totally wrong. According to Fife council's Noise Guidance for New Developments, **"Where noise is a consideration in a planning application**, planning officers will consult with Environmental Health. In the first instance, EH will advise whether a noise impact assessment (NIA) is required and **review any noise information submitted by the applicant**. Environmental Health will then consider **whether the information provided is sufficient to accurately characterise the noise impact of the proposed development**. Also, according to the same document the **Level of Sensitivity Associated with residential areas is categorised as high sensitivity**.

Moreover, even for permitted developments, the installer/owner should provide notes and calculations to local councils: "The Standard, and the notes and calculations carried out by MCS Contractors, will also be used by local planning authorities and the MCS to verify compliance" (MCS 0-20). Installation of an ASHP at the driveway for 19/02448/FULL was not a permitted development, so Fife council was supposed to assess the noise impact of the ASHP especially because Environmental Health had raised concerns.

I would also like to draw your attention to the fact that **the application and permission (19/02448/FULL) was for a Mitsubishi Ecodan PUAZ-W112VHA(-BS) which is an ASHP with 2 propeller fans**. Considering the distance of the proposed ASHP to No.43, Fife council was supposed to carry out assessments for any ASHP, let alone a 2-propeller fan.

4.2. The Retrospective Application (21/02318/FULL)

I have asked Fife council many times to clarify the 'level of harm' for the breach of 'planning permission' and the breach of 'noise condition' for 19/02448/FULL based on Fife council Planning Enforcement Charter, but I was never provided with a response. According to Fife council's Planning Enforcement charter, there are 3 stages of dealing with possible breaches: Identifying possible breaches of planning control, Investigating possible breaches of planning control, and Acting on breaches of planning control. Categorizing the 'level of harm' into Significant, Medium and Low harm relates to the second stage (investigating the breach). I have asked Fife council many times to provide the 'investigations' they carried out (including the decision for level of harm) prior to proposing the retrospective application, but I was never provided with anything. In other words, I want to know based on 'what investigations' and 'which level of harm categorization', Fife council 'proposed' and 'validated' the retrospective application.

I would like to highlight the issue of design **and visual impact of the ASHP**. The applicant does not own the public path, and an ugly, noise generating device, with a fan, coil, and electric components should not be on display at the public path. Fife council should clarify why and based on what assessments and investigations "the ASHP is considered compliant with the

relevant policies relating to design and visual impact”. According to Fife council policies the officers “will explain why [they] have done so as part of the assessment of the application”. I have asked Fife council many times to provide legislation, policies, investigations, and assessments based on which they decided that the ASHP complies with design and visual impacts. I have asked them to clarify the policies related to ‘means of enclosure’ and confirm if noise generating devices can actually be installed on the boundary of houses in residential areas, but I was never provided with a solid justification.

My concerns regarding installation of Heat Recovery System as another noise generating system and if any assessments has been carried out regarding its installation has remained unanswered.

4.3. The Big Enigma: Who is the installer?

The applicant insists that the installer of the ASHP is MCS certified. Based on their own earlier claims, the installer was Eco Coil Heating Ltd. However, ever since the installation issues were raised, they have refused to formally declare the name of the installer claiming that it could jeopardise the installer’s business. Firstly, if the installer has done a proper job, they should not be worried about their reputation. Secondly, no.41 should not be worried about the installer either, unless they have been in it together. Thirdly, if the installer is MCS certified ‘they’ are obliged to provide notes and calculations, not any other company.

According to MCS senior analyst, “... local planning authorities should have access to the information of the system as it essentially affects local environmental health. So, if they have any doubt that there is an installation that’s non-compliantly installed, and is at risk to local environmental health, then they have the right to have access to the installation information to check for calculations used etc”. So, it is not clear why Fife council is even ready to accept calculations (WSP, Atkins) rather than insisting on receiving the notes and calculations of the MCS certified installer himself (Eco Coil Heating).

4.4. Safety of the Installation

I have raised the issue of **safety of the installation** many times (including in my objection and the appeal comments), but the safety of the installation seems to be of no importance to Fife council. If the installer is MCS certified, ‘they’ should provide all the assessments and information; if they are not certified, there is a high risk that the installation is not safe.

According to regulation, apart from the compliance notes, the installer should provide written details of installation, maintenance checks, and an emergency guide. I would like to emphasise that Fife council must seek all the details of installation of the ASHP including electricity, pipelines, etc. **As the ASHP is accessible to the public, it is necessary that fife council finds out how an MCS certified installer did such a job without taking any safety considerations.**

I would like to use this opportunity to raise a red flag regarding the policies of the Scottish Government, in general, and Fife council, in particular, for installation of ASHPs. The legislations and policies for installation of ASHPs have so many loopholes which makes it possible for people with means and links to do whatever they want to do with absolute impunity. People who suffer, on the other hand, will be trapped in a vicious circle in which no individual or institution feels responsible to actually solve the problem.

4.5. Final Notes

Once more I would like to highlight that the applicant, the site manager, and the current resident at no.41 – as the active members of **TYRIE DEVELOPMENTS LIMITED** (a building company founded in 2001) – and the agent of no.41 as an experienced architect – **were all aware of the consequences of the material changes to the planning permission without informing the authorities.**

I would also like to use the MCS analyst's statement to reiterate that if – as the applicant claims – the installer of the ASHP is 'MCS certified', **the installer, not random companies, is obliged to provide Fife council with notes and calculations that proves compliance, and Fife council must only accept the MCS certified installer's calculations.**

Noise is a serious matter that can have **permanent, irreversible, detrimental effect on people's physical and mental health, and as** I have stated before, the noise from the ASHP at no. 41 has drastically impacted my health, my family life, and my performance in my job. I would, therefore, plead with the committee to please take all the matters into consideration and refuse the application.

Thank you for your time and consideration.
Parmis Mozafari
16-04-2023

Agenda Item 6(1)

**25 Elm Grove, Dunfermline, KY11 8AA
Application No. 22/02622/FUL**

Notice of Review



Fife House North Street Glenrothes KY7 5LT Email: development.central@fife.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 100592559-004

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:	Andrew Megginson Architecture		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Andrew	Building Name:	Andrew Megginson Architecture
Last Name: *	Megginson	Building Number:	
Telephone Number: *	0131 557 9129	Address 1 (Street): *	128 Dundas Street
Extension Number:		Address 2:	New Town
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	Scotland
		Postcode: *	EH3 5DQ
Email Address: *	andrew@andrewmegginsonarchitecture.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="Ms"/>	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="Julie"/>	Building Number:	<input type="text" value="25"/>
Last Name: *	<input type="text" value="Hickey"/>	Address 1 (Street): *	<input type="text" value="Elm Grove"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dunfermline"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="KY11 8AA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:	<input type="text" value="Fife Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="25 ELM GROVE"/>
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="DUNFERMLINE"/>
Post Code:	<input type="text" value="KY11 8AA"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="685910"/>	Easting	<input type="text" value="310376"/>
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Description of Proposal

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

Two storey extension to side of dwellinghouse | 25 Elm Grove Dunfermline Fife KY11 8AA

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.

See review statement

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

Yes No

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

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

App form, Existing and proposed plans, Daylight assessment, Review statement, Precedent doc.

Application Details

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

22/02622/FULL

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

03/08/2022

Review Procedure

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

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

Yes No

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mr Andrew Megginson

Declaration Date: 27/01/2023



Fife House North Street Glenrothes KY7 5LT Email: development.central@fife.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 100592559-001

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

Type of Application

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

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

Description of Proposal

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

Alterations and extension to house

Is this a temporary permission? *

Yes No

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

Yes No

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

No Yes – Started Yes - Completed

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Andrew Megginson Architecture		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	Andrew	Building Name:	Andrew Megginson Architecture
Last Name: *	Megginson	Building Number:	<input type="text"/>
Telephone Number: *	0131 557 9129	Address 1 (Street): *	128 Dundas Street
Extension Number:	<input type="text"/>	Address 2:	New Town
Mobile Number:	<input type="text"/>	Town/City: *	Edinburgh
Fax Number:	<input type="text"/>	Country: *	Scotland
		Postcode: *	EH3 5DQ
Email Address: *	andrew@andrewmegginsonarchitecture.com		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	Julie	Building Number:	25
Last Name: *	Hickey	Address 1 (Street): *	Elm Grove
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	Dunfermline
Extension Number:	<input type="text"/>	Country: *	Scotland
Mobile Number:	<input type="text"/>	Postcode: *	KY11 8AA
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Fife Council

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

Address 1:

25 ELM GROVE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

DUNFERMLINE

Post Code:

KY11 8AA

Please identify/describe the location of the site or sites

Northing

685910

Easting

310376

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

304.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

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

Residential

Access and Parking

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

Yes No

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

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

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

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

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

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

Yes – connecting to public drainage network

No – proposing to make private drainage arrangements

Not Applicable – only arrangements for water supply required

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

Note:-

Please include details of SUDS arrangements on your plans

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

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

Yes

No, using a private water supply

No connection required

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

Assessment of Flood Risk

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

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

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

Trees

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

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

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * Yes No

If Yes or No, please provide further details: * (Max 500 characters)

Provision as existing.

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

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

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

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

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

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

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Andrew Megginson

On behalf of: Ms Julie Hickey

Date: 03/08/2022

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

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

Provide copies of the following documents if applicable:

- | | | |
|--|------------------------------|---|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |

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

Declare – For Application to Planning Authority

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

Declaration Name: Mr Andrew Megginson

Declaration Date: 03/08/2022

Payment Details

Pay Direct

Created: 03/08/2022 07:50

PROPOSED TWO STOREY EXTENSION TO SIDE OF DWELLINGHOUSE AT 25 ELM GROVE, DUNFERMLINE

Review Statement

Firstly we would like to iterate the following;

The planning application was submitted on the 3rd August 2022 and validated on 10th August. We are now almost at 6 months come the 10th of February for a side extension which is simply unacceptable. Our client has paid the planning application fee for this 'service'.

We present a timeline below of how the application has progressed since the submission. We highlight some key points in the timeline.

-Planning submitted and validated on 10th August.

-On 7th September planning officer Martin Mackay raised potential daylight issues and noted that a daylight assessment would be required. To which we responded noting we would have one carried out.

-We engaged Hollis, an independent real estate consultancy, who have qualified experts carrying out daylight assessments on a regular basis on small projects such as this to much larger developments in the UK and abroad.

-On 28th September a new planning officer got in touch, Gary Horne, who noted that he had been notified of the issues of daylight and also raised parking as one other issue (which we have since resolved).

-On 4th October we emailed Mr Horne with the daylight assessment which upon running an additional assessment on top of the VSC for Daylight Distribution (DD) which is in accordance with the BRE guide show the results are positive, indicating that the effect will be negligible and within the permitted 20% reduction.

-Mr Horne replied to the daylight assessment with the below;

"Thanks for sending me the VSC report over. To my knowledge we've never approved an application on the basis of a 'Daylight Distribution' assessment. I think we would need to see how you reached these figures and any annotated drawings you have produced before we would even consider this analysis.

Can you also document which windows/rooms each calculation relates to? It is my understanding from a recent submission by the neighbouring that the windows attached to the door serve a kitchen and the other windows serve a bathroom. The kitchen windows are the ones we would be concerned about."

-On 20th October Hollis replied with the following;

"With regard to the Daylight Distribution assessment, this test looks at the position of the "No-Sky Line" (NSL) – that is, the line that divides the points on the working plane (0.85m from floor level in dwellings) which can and cannot see the sky. The BRE guide suggests that areas beyond the NSL may look dark and gloomy compared with the rest of the room and states that electric lighting is likely to be needed if a significant part of the working plane (normally no more than 20%) lies beyond it. For existing buildings the BRE guide states that if, following the construction of a new development, the NSL moves so that the area beyond the NSL increases by more than 20%, then daylighting is likely to be seriously affected. In this case, the area of the room beyond NSL does not increase by more than 20% and as such, the occupiers will be able to enjoy good levels of daylight in the kitchen."

They also attached some detailed diagrams with this email.

-I had a call from Mr Horne after this email was received by him noting that he is generally happy to accept these findings however he would require workings/ calculations for him to review and use for information to verify.

-On 21st October Hollis sent the following to the above;

"That's great news – I have attached the latest edition of the BRE guide on which we have based our assessment. The daylight distribution calculations are explained in detail in 'Appendix D: Plotting the no sky line'.



We undertake our technical analysis using 3D CAD modelling techniques and specialist computer software – please see the link below to the website which explains the process in more detail.

<https://www.mbs-software.co.uk/waldram-tools-for-autocad/>

-On the same day Mr Horne replied with the following;

“As per my call with you Andrew earlier, I don’t believe the information provided thus far is detailed enough in order to support the application. I can’t say with any certainty that there won’t be a loss of daylight issue on the back of a statement saying the proposal complies with the daylight distribution assessment – which let’s face it, is a pretty niche method – without anything to back it up. I appreciate you are saying that you have 3D software doing this automatically for you but without ‘showing your workings’ we are unlikely to support the application as it won’t be possible to justify that there won’t be any amenity issues. “

-Hollis then forwarded on Mr Horne’s email to their senior technician with the following note to us;

“As mentioned below, Appendix D of the BRE guide shows how daylight distribution is calculated and our assessment has been undertaken in accordance with the BRE guide. This is an industry recognised document and almost all local authorities accept the daylight distribution method of assessment (Five Council has its own policy which looks at the VSC assessment only but both methods are based on the same BRE guide).”

-On 26th October we then forwarded on some very detailed and comprehensive results and diagrams from their model proving their findings in their report.

-On 4th November, Mr Horne responded to us noting that even with everything sent over he could not confidently verify the results.

-On 7th November we responded with the following and requested a call to go over everything;

“As Hollis noted before the BRE is an industry recognised document and as such this method is the standard/ accepted approach used by the majority of daylight and sunlight consultants. This has been accepted by other councils including Edinburgh City Council. If you would like I can try and reach out to another planning officer at ECC (or another) where this methodology has been used and accepted to gain their thinking/ verification process?”

-We then did not get a response until the 24th of December with Mr Horne still noting that he was not going to accept the study prepared by Hollis.

-On the 5th of January we noted to Mr Horne that we had asked for Hollis to provide further comment.

-On 10th of January we passed over Hollis’ response and also noted the following;

“On top of this, if the statement below is still not acceptable, I would suggest that we get another daylight practitioner to review the report and provide their objective view. Would you be open to us contacting a third party to see if they could provide this and would the application be acceptable in relation to the daylight/ sunlight report if validated positively by a third party? I feel this is the only fair and practical route forward past this impasse.”

-Since our email on the 10th of January we have had no further correspondence from Mr Horne.

Copies of all correspondence above can be provided upon request.



As mentioned above Hollis are an independent real estate consultancy with expert consultants in a number of specific fields relating to real estate. The consultants regarding daylight/ sunlight aspects are all fully qualified and use state of the art technology to support their findings all in line with BRE guidance an industry recognised document. Mr Horne is not qualified in this field and himself noted within the first bold correspondence highlighted above that “he could not confidently verify the results”.

When a planning officer requires certain aspects of a planning application reviewed out with their professional knowledge/ remit they would have certain consultees analyse the application and provide findings/ comment to the planning officer for example the Heritage Department or Scottish Water. In this instance we have done the same at the applicants expense as requested by the council where we have had an independent consultant review the proposals in relation to an issue that has been raised and have concluded that in line with BRE guidance, our industry benchmark guidance document, the proposals will not detrimentally affect the neighbouring property.

We have even offered to Mr Horne third party review of the report as we are confident that they could be verified this way however we have not heard anything back from Mr Horne since the offer.

The application process has now become exacerbated in terms of time and we have no other route other than to seek a review of the application. We trust that with the above in mind and the expert report carried out by Hollis that the Local Review Body can help us through this impasse and approve the application.

We have also attached a document from the applicant showing similar development in their housing complex that have been allowed.

We also note that the windows in question are to a shower room and kitchen which under current Building Standards do not need a window to them.

We trust that the Local Review Body has enough information on this application however please do not hesitate to contact us if anything further is required.

With Kind Regards,

Andrew Megginson

AMA



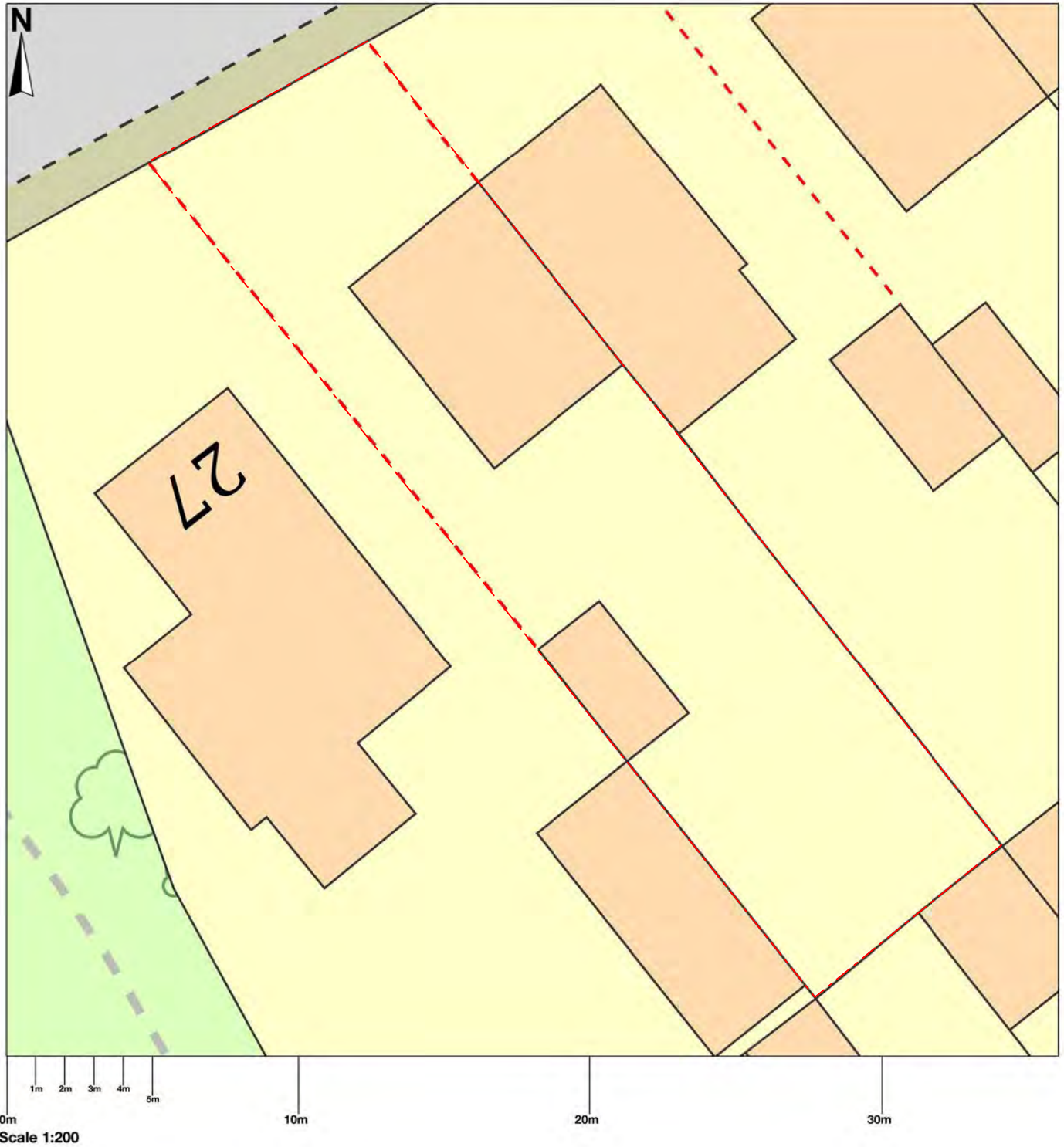
25 Elm Grove, Dunfermline, KY11 8AA



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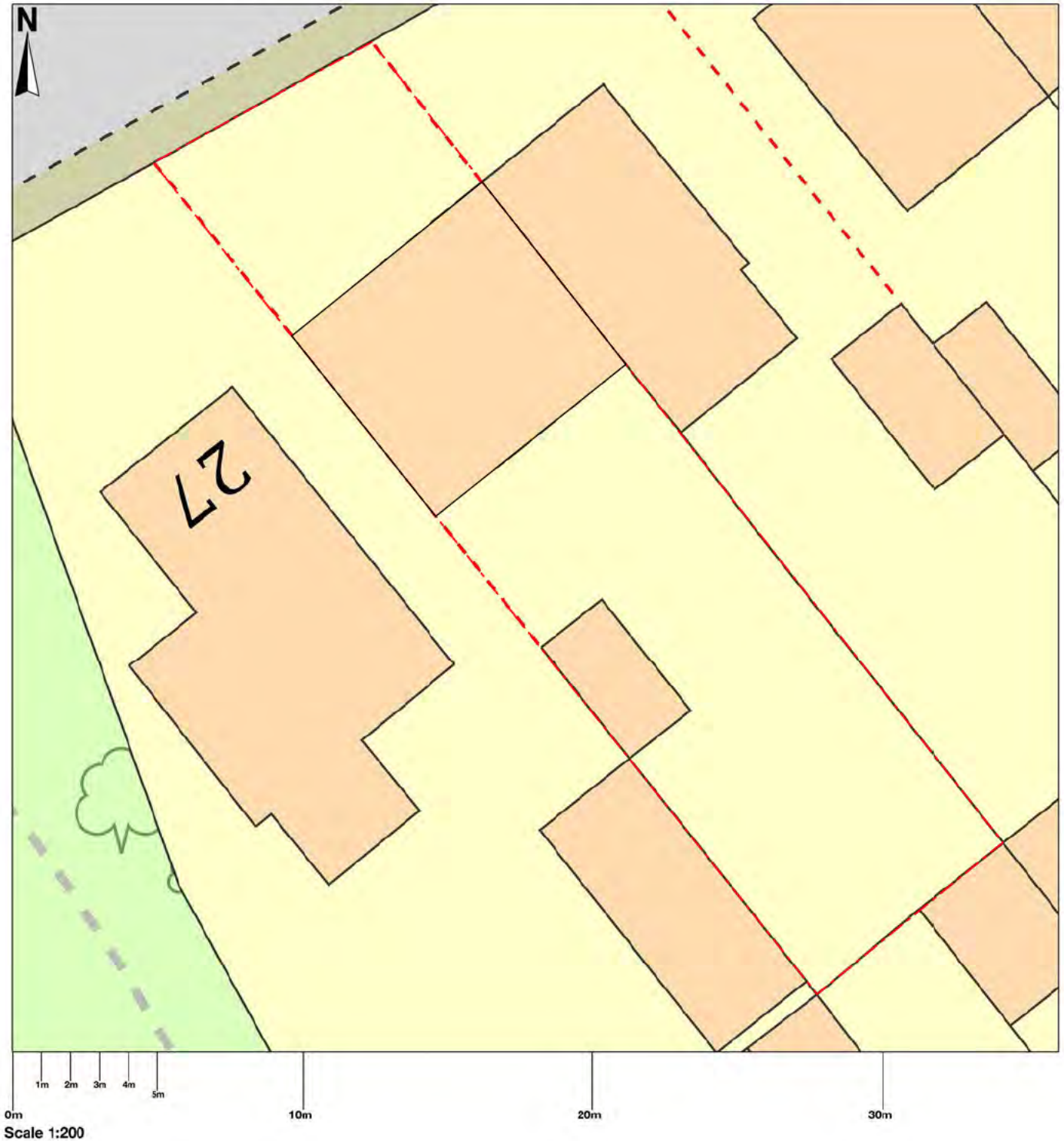
25 Elm Grove, Dunfermline, KY11 8AA



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25 Elm Grove, Dunfermline, KY11 8AA

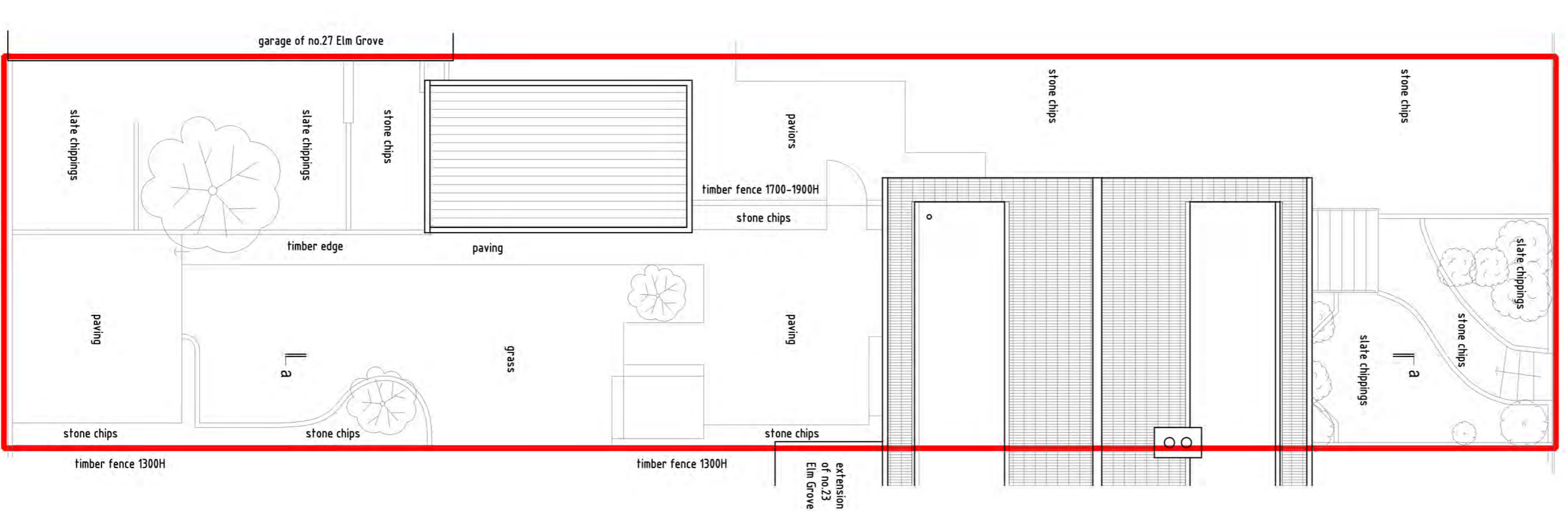
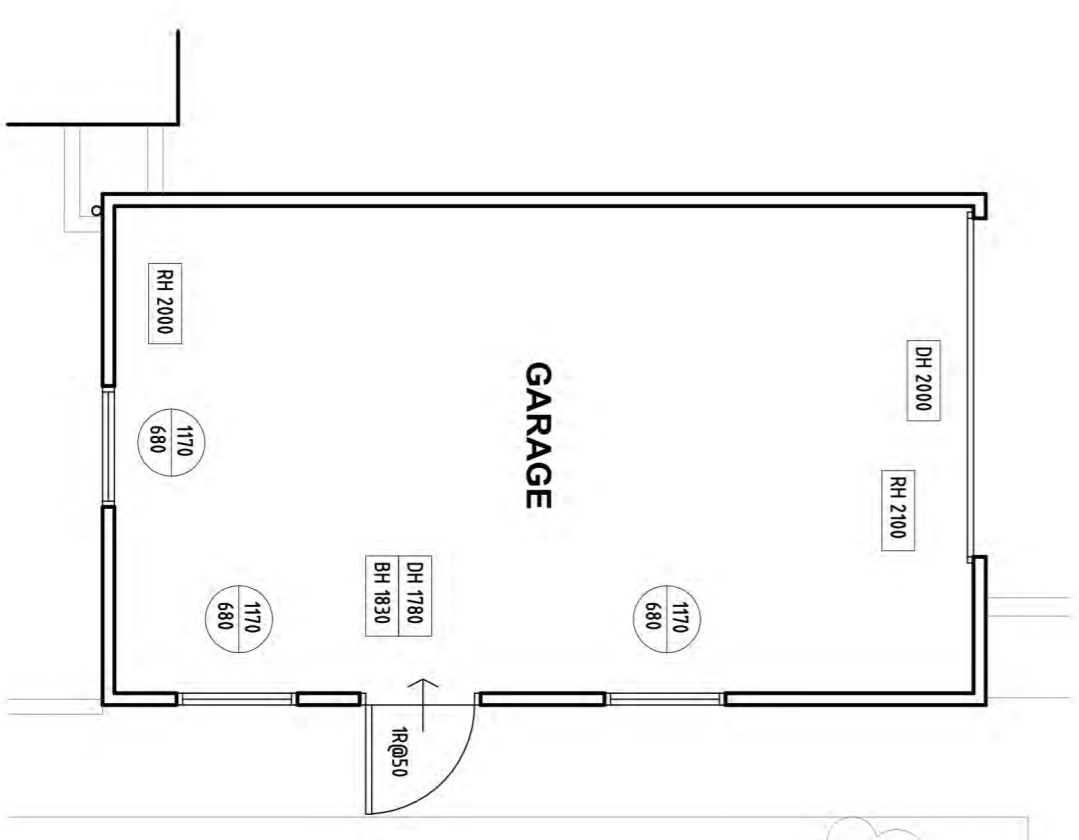
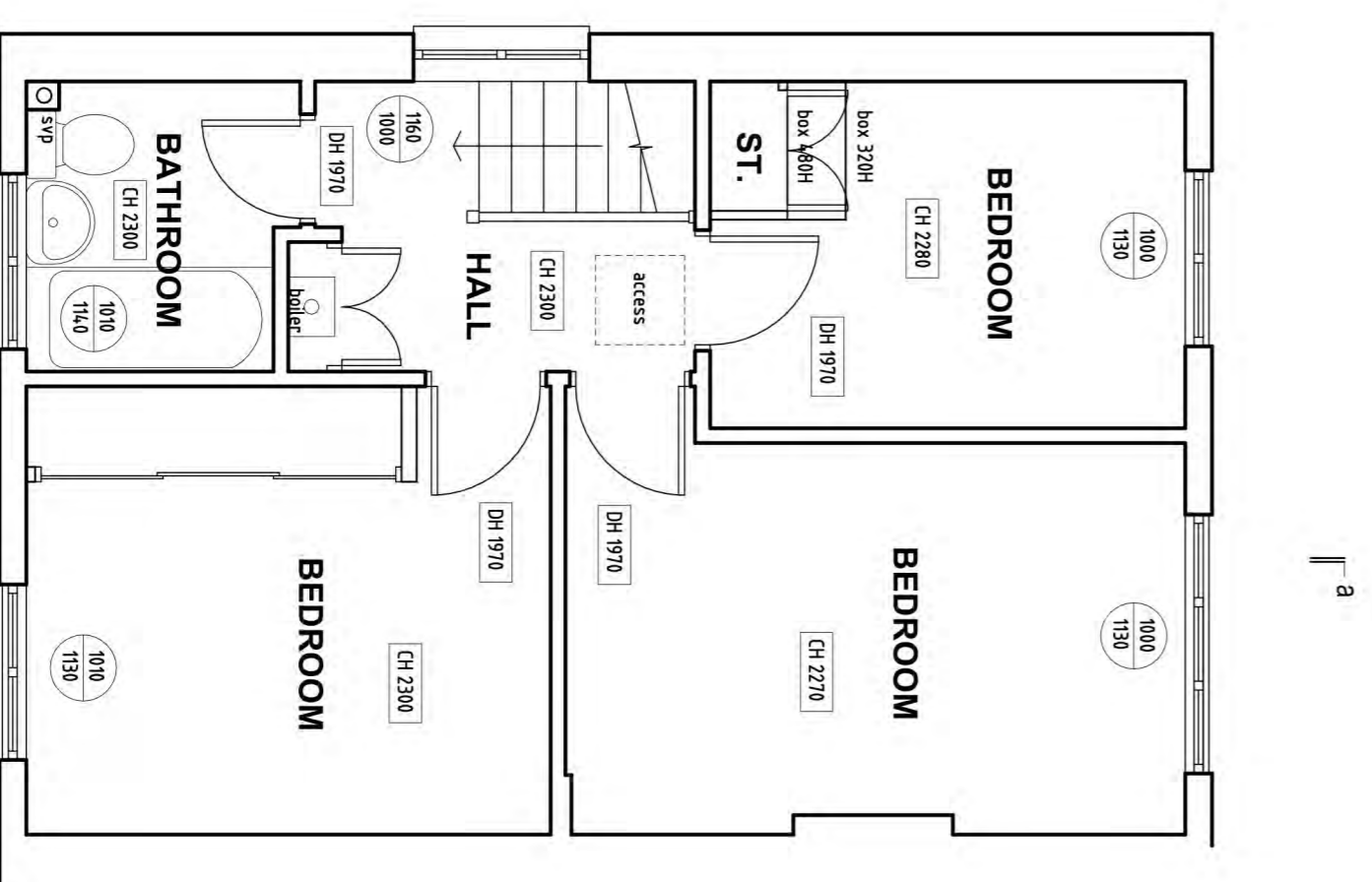
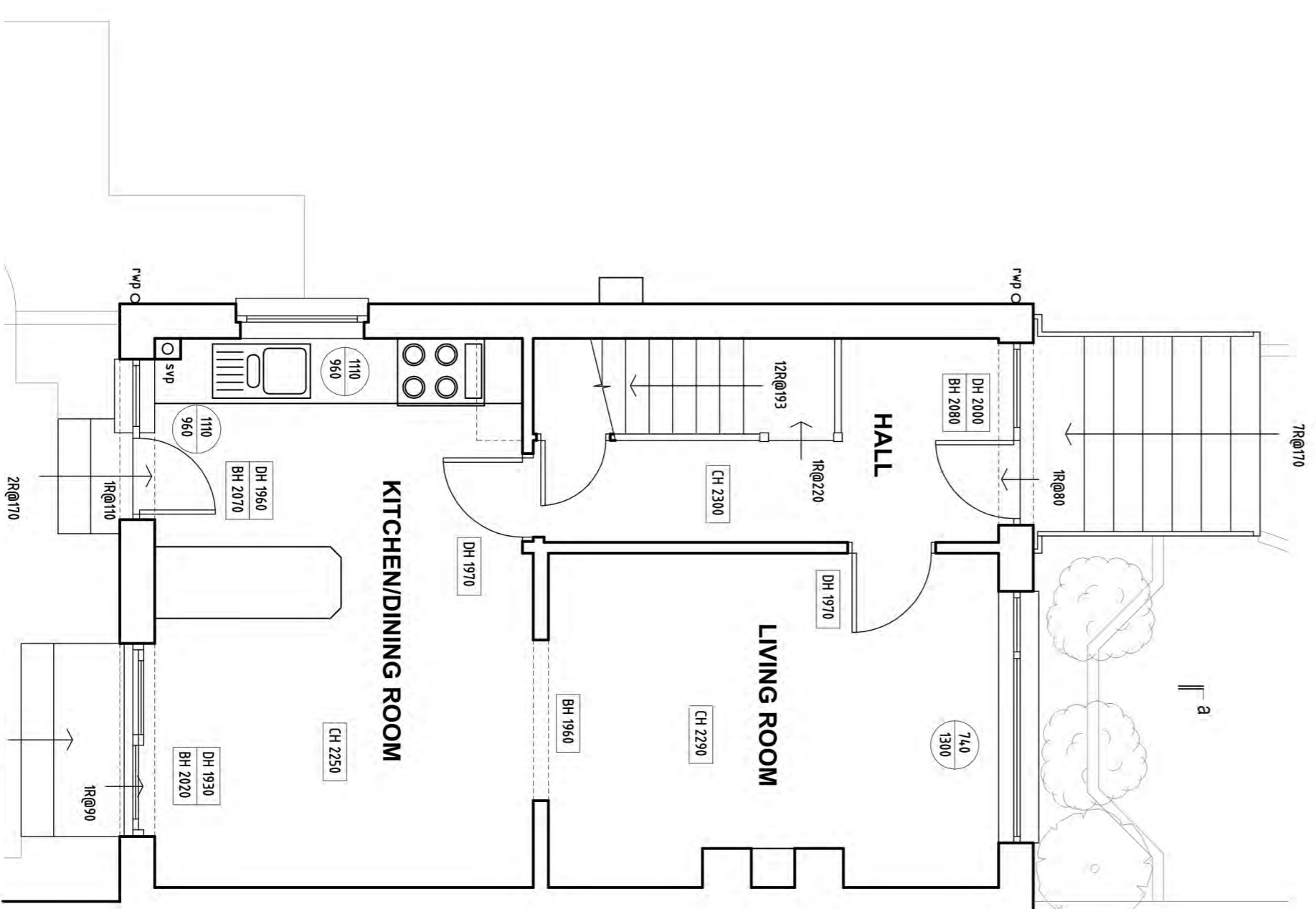
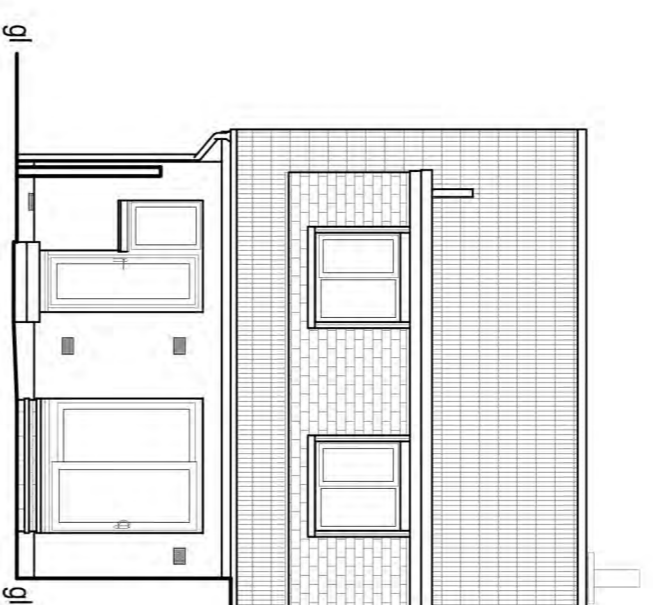
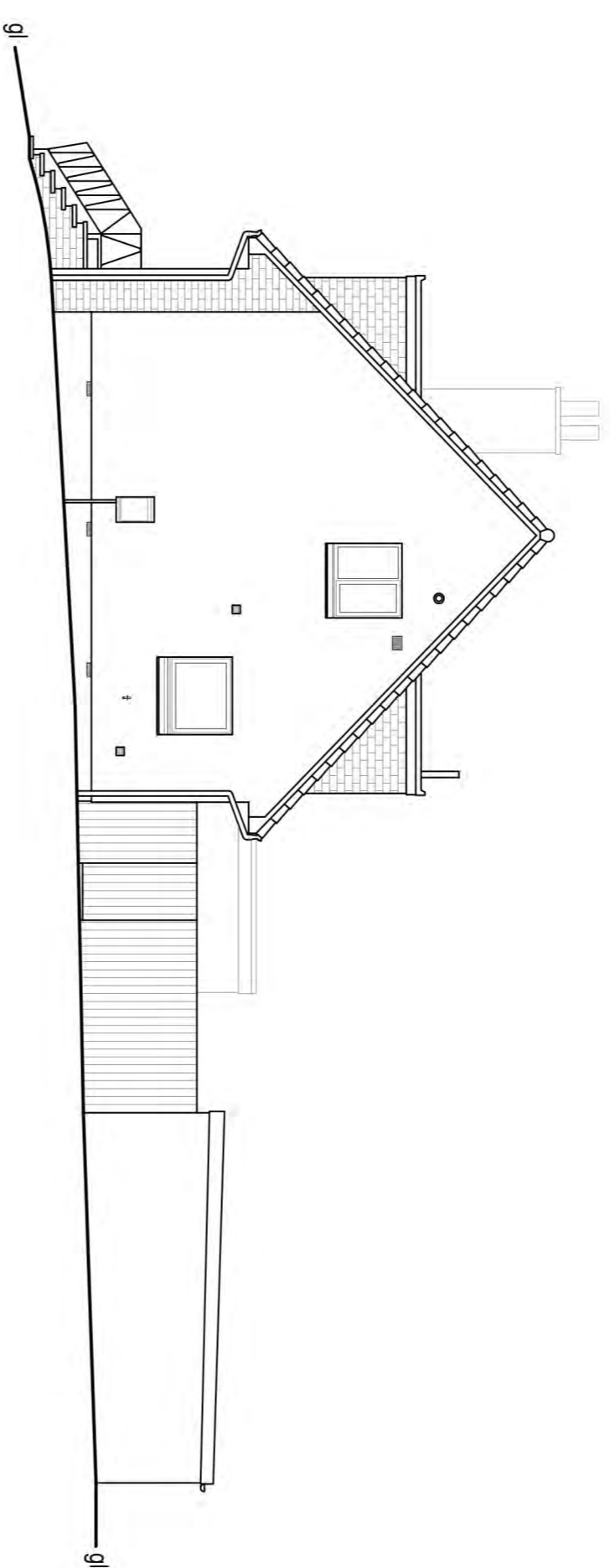
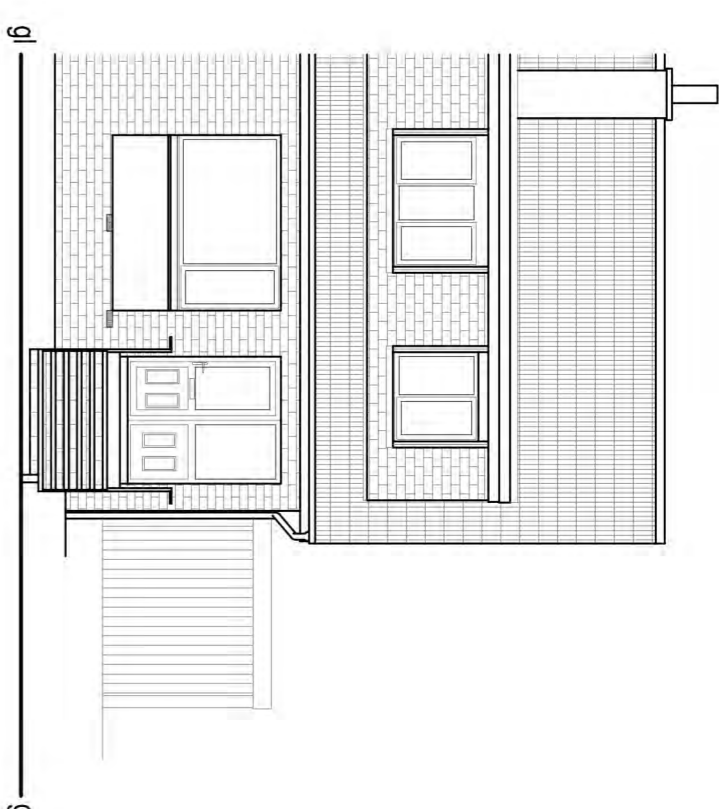
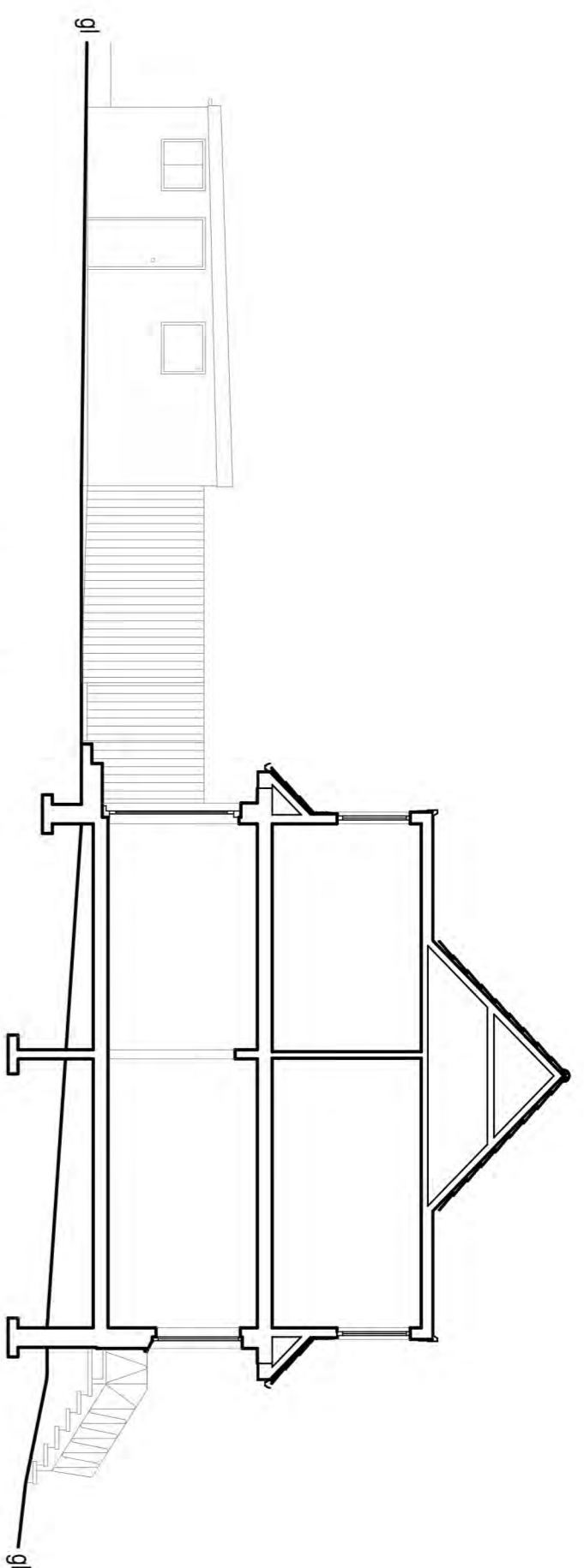
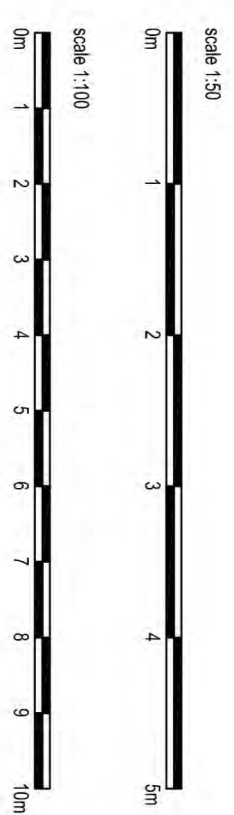


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GIA	Sq Ft	Sq M
Ground floor	420	39
First Floor	420	39
Garage	194	18
Total	1,034	96

Key:-

- floor to all height
- cell to head height
- floor to head height
- floor to ceiling height
- floor to lowered ceiling height
- floor to beam height
- door height
- wall height
- floor to top of fan light
- ridge height
- height to underside of roof



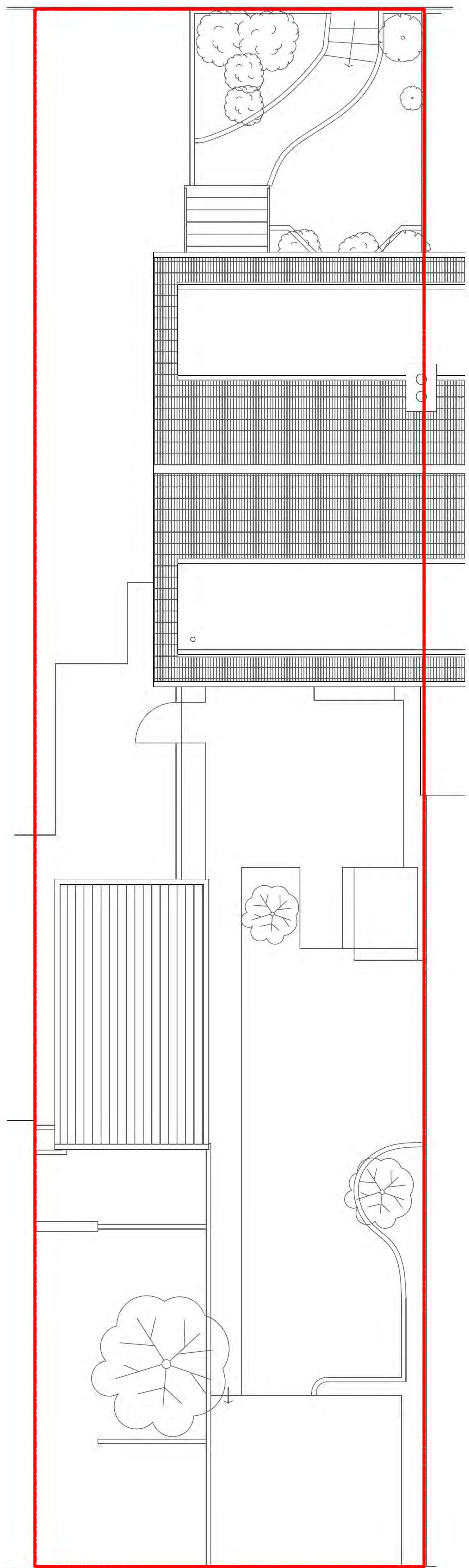
Only scale for planning purposes.
© SquarerFoot 2022.

Existing property at
25 Elm Grove
Dunfermline
KY11 8AA
Andrew Megginson

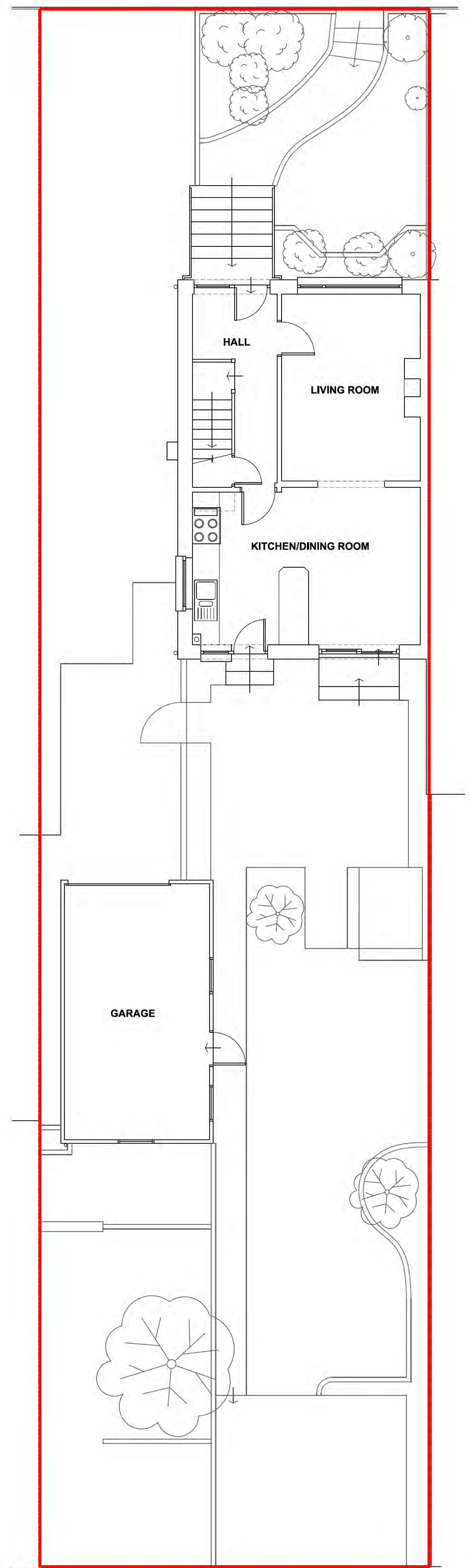
Date: 08/07/22 Scale: A1:1

SquarerFoot
3 Marchfield Park
Edinburgh EH4 5BW
07720 634 835
info@squarerfootmedia.co.uk

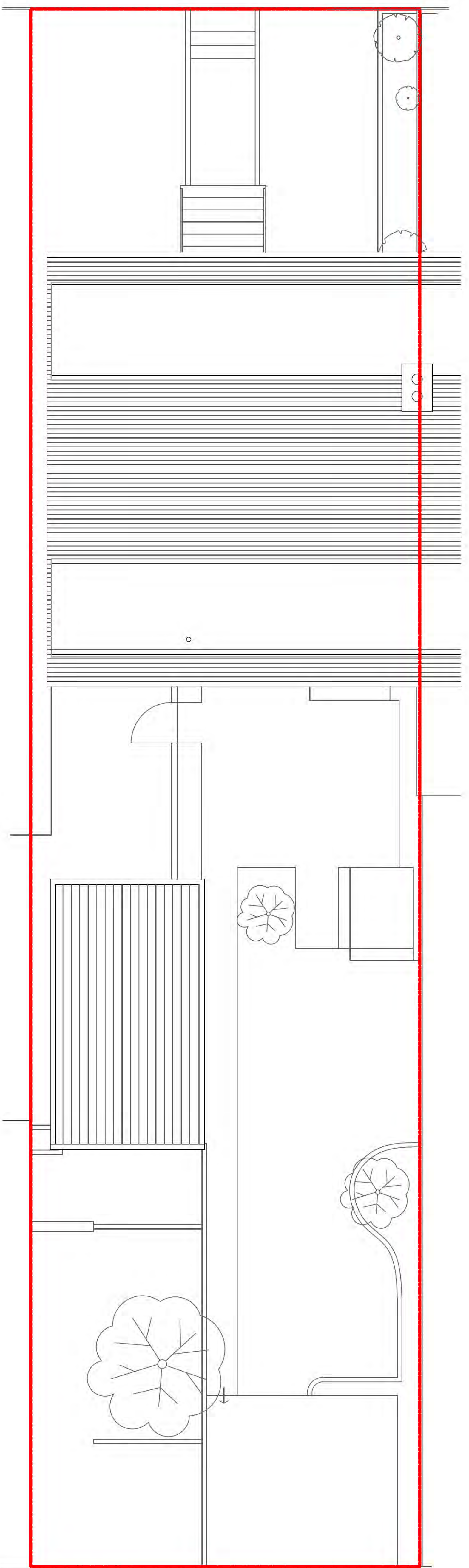
Proposed Materiality:
 Roof - Tiles/ flat roof to match existing
 Rainwater Goods - To match existing
 Walls - To match existing
 Windows - To match existing
 Doors - To match existing



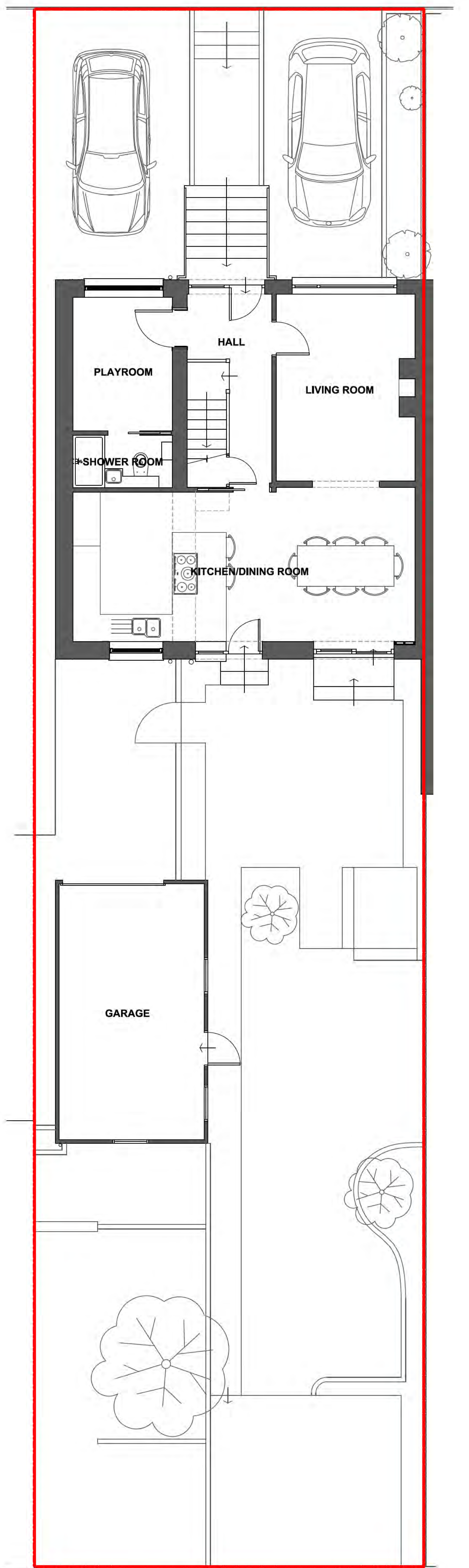
Existing Roof Plan



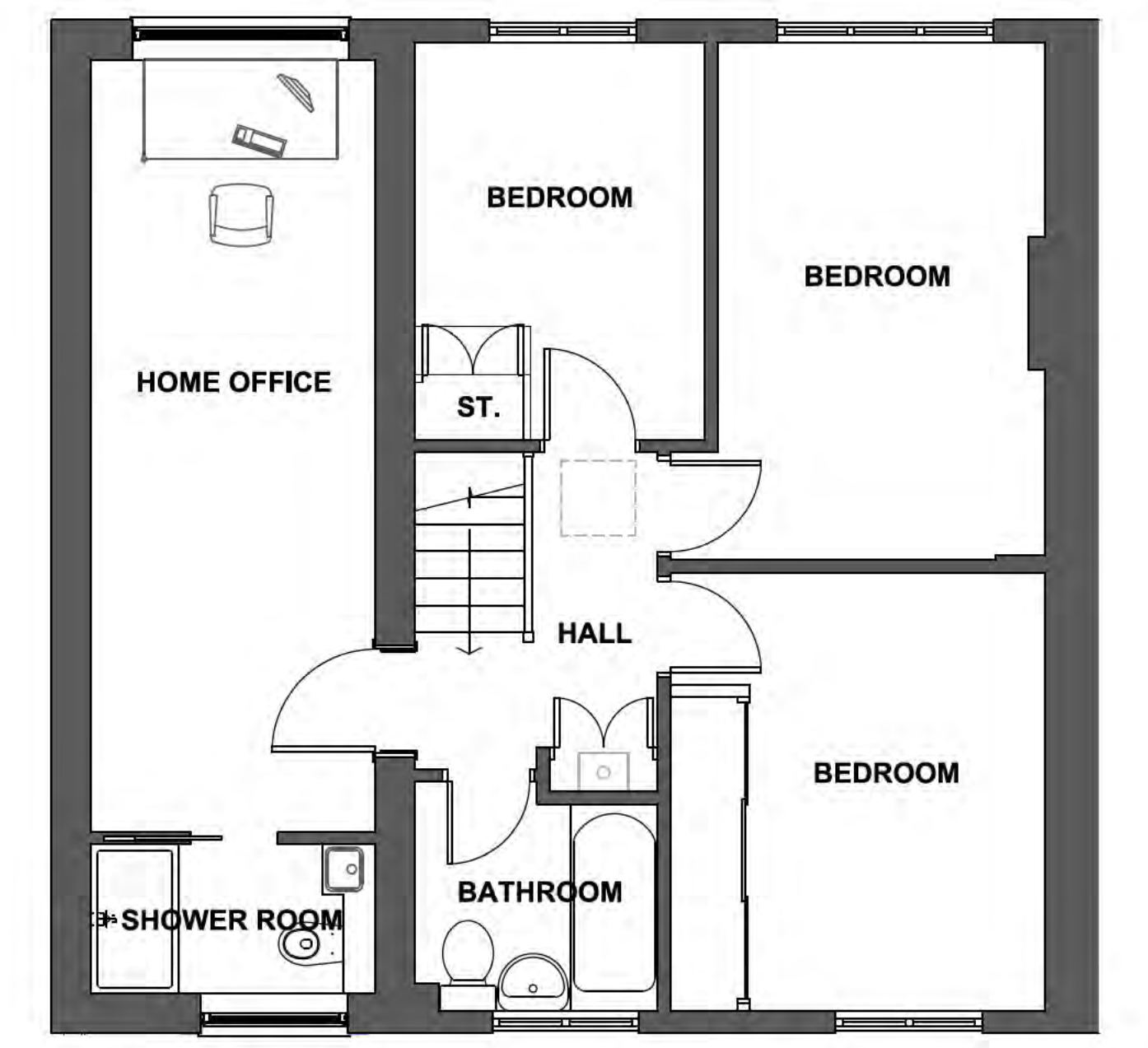
Existing Roof Plan



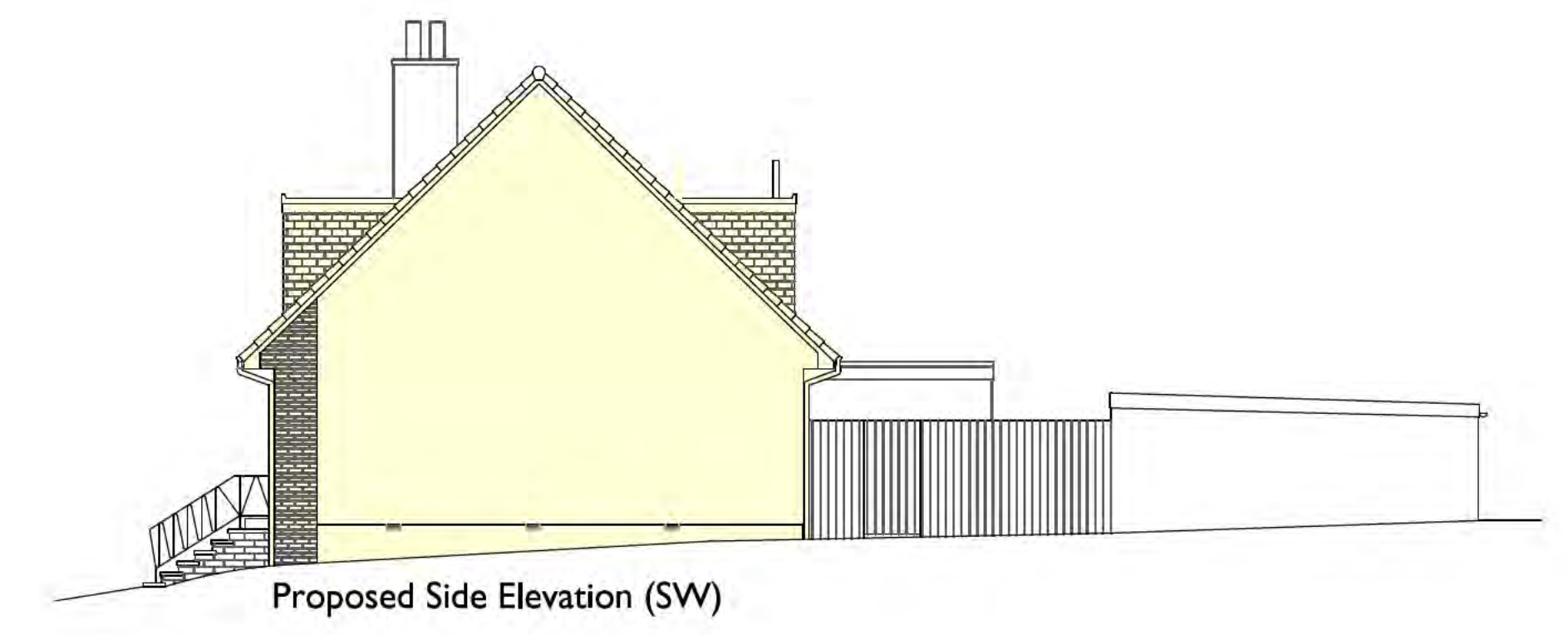
Proposed Roof Plan



Proposed Ground Floor Plan



Proposed First Floor Plan



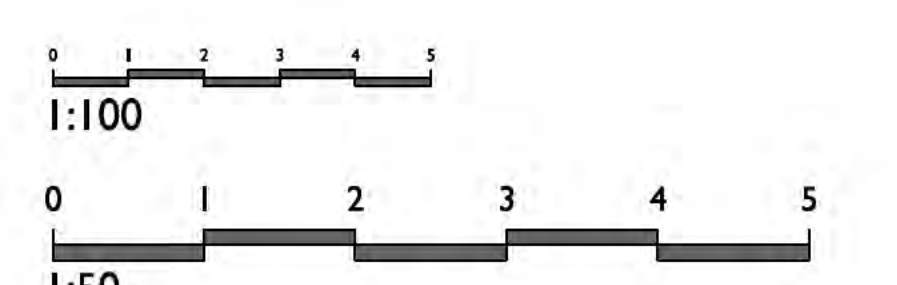
Proposed Side Elevation (SW)



Proposed Front Elevation (NW)



Proposed Rear Elevation (SE)



Client	Ms. Hickey	Project	Proposed Extension and Alterations to 25 Elm Grove, Duffelline	Architect	Andrew Megginson Architecture 128 Dundas Street New Town Edinburgh EH3 5DQ Tel: 0131 557 9129 Email: info@andrewmegginsonarchitecture.com
Drawing	Plans	Status	PLANNING	Drawn	AM
Scale	1:50	Date	2023-07-22	Sheet	1 of 1

Denotes areas of new works (elevations)



To: Andrew Megginson Architecture
128 Dundas Street,
Edinburgh
EH3 6HL

By email only to: Andrew@andrewmegginsonarchitecture.com

Our ref: 117953-100/BTM/JoS

Date: 29 September 2022

Dear Andrew

25 Elm Grove, Dunfermline KY11 8AA

Further to your recent instructions we have undertaken a daylight assessment in relation to any [REDACTED] development at 25 Elm Grove may have on the neighbouring buildings, [REDACTED] Grove.

Planning policy

The Fife Council's Local Development Plan (FIFePaln) adopted in September 2017 contains the following guidance under 'Policy 10: Amenity':

"Development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. Development proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to:

- 1. Air quality, with particular emphasis on the impact of development on designated Air Quality Management Areas (see below).*
- 2. Contaminated and unstable land, with particular emphasis on the need to address potential impacts on the site and surrounding area.*
- 3. Noise, light, and odour pollution and other nuisances, including shadow flicker from wind turbines.*

HCL31154-2052765505-146\1.0

Hollis, 63a George Street, Edinburgh, EH2 2JG
T +44 131 240 2800 hollisglobal.com

Ben Mack
DD +44 131 240 2802 M +44 7717 342093 E ben.mack@hollisglobal.com

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Registered office: Battersea Studios, 80-82 Silverthorne Road, London SW8 3HE.
VAT number 863 8914 80. Regulated by RICS.

4. Traffic movements.

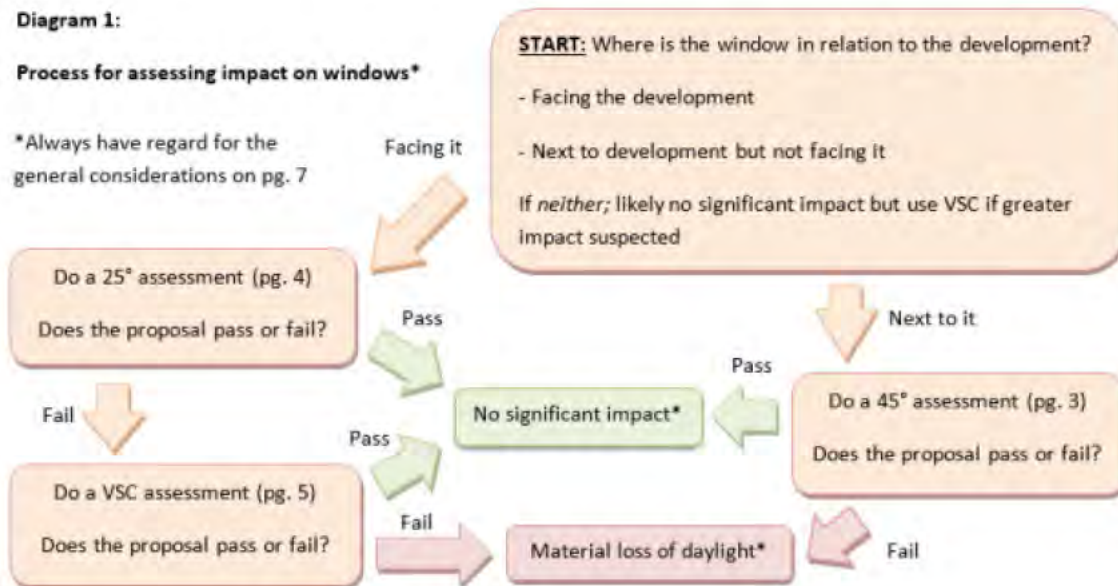
5. The loss of privacy, sunlight, and daylight...."

The Fife Council has published 'Daylight and Sunlight Supplementary Guidance' which comprises of the following diagram:

Diagram 1:

Process for assessing impact on windows*

*Always have regard for the general considerations on pg. 7



Apply the above-mentioned guidance:

"If a proposal would cause a neighbouring window to fail to receive a material degree of daylight provision following a Vertical Sky Component (VSC) method assessment then this means the proposal would have an adverse impact on residential amenity – subject to accounting for the general considerations."

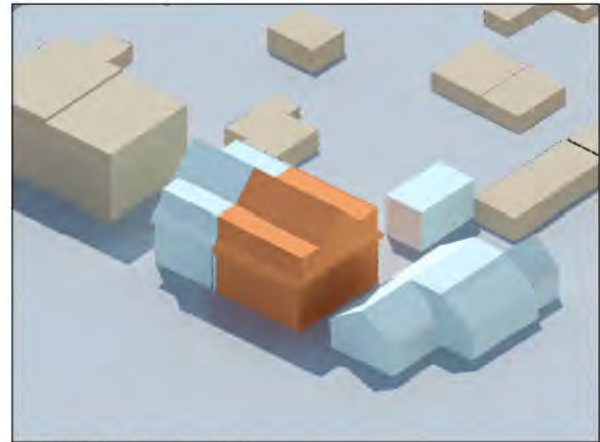
To ensure that this assessment can be appropriately evaluated against Fife Council's planning policy, we have undertaken a Vertical Sky Component (VSC) assessment in accordance with the Building Research Establishment (BRE) Report "Site Layout Planning for Daylight and Sunlight – a guide to good practice, 3rd Edition, 2022 ("the BRE guide").

Technical analysis

The diagram below shows the 3D contextual views of the proposed development massing in orange, taken from our detailed analysis model.



Proposed Site Plan



3D Context View - View from West



3D Context View - View from North

Daylight

In accordance with the BRE guide and FIFEplan, we have undertaken a Vertical Sky Component (VSC) assessment for the existing, neighbouring property at 27 Elm Grove. The numerical results are shown in the table below.

Floor ref.	Window ref.	Existing VSC	Proposed VSC	Times former value	Attains BRE target?
27 Elm Grove					
Ground	W1	23.14	19.21	0.83	Yes
Ground	W2	20.81	13.41	0.64	No
Ground	W3	20.35	10.66	0.52	No

Of the 3 three windows assessed, one (33%) will meet or exceed the target recommended in the Design Guidance.

The remaining two windows fall short of the target values recommended in the BRE guide; however, they will retain VSC of 0.64 and 0.52 times their former values against the BRE's recommended target of 0.8.

For the windows that do not meet the requirements, we have used the Daylight Distribution (DD) method of assessment as recommended in the BRE guide. The numerical results are shown in the table below.

Floor ref.	Room ref.	Existing DD	Proposed DD	Times former value	Attains BRE target?
27 Elm Grove					
Ground	R1	8.0	6.4	0.8	Yes
Ground	R2	11.9	11.4	0.96	Yes

The rooms assessed for DD will meet and exceed the target values set out in the BRE guide for protecting daylight amenity to surrounding buildings. As such, the proposed development at 25 Elm Grove will have a negligible impact on neighbouring daylight amenity.

Should you have any questions, please do not hesitate to contact me.

Yours sincerely



Ben Mack
Director

Hi Andrew,

Following from our last correspondence, but in particular one comment made by the planner, (this part below) has piqued our interests somewhat

I think the inclusion of a two storey extension is such close proximity to a neighbouring entrance door and kitchen window would likely have an overbearing impact upon the neighbouring property and certainly the daylight assessments strengthen that case.

Julie and I have spent time over the last few months walking all the different streets of what is a huge housing complex we live in, and we have attached a few photos of extensions that we have discovered that in some cases are two stories high and as close if not closer to the neighbouring property than we are proposing, which would surely have overbearing impact on any side windows into kitchens, upstairs landings etc on the neighbouring properties.

These images of 26 Cypress Grove are of interest as it is an extension to a dormer, like ourselves onto a neighbouring bungalow, like ourselves. Although it is not a two storey extension, I can confirm the bungalow entrance is to the left of the white car, and the dormer is naturally elevated comparable to the bungalow and the vaulted roof heightens the extension, to a height from the neighbouring door to our proposal height.



This image (114 Pitcorthie Drive) is of an extended dormer, same as our proposal, but with an added extension to the front porch area, and the neighbour has a side door, albeit at the front of the house.



The last image, 22 Cedar Grove again shows a dormer with the original garage juxtaposed to the house, and the neighbouring property is a bungalow with a side entrance door and kitchen window. Now, fair enough, the garage is not the same height as our plan and legislation may have changed since the Cedar Grove development was built, but

as you can see in all the other properties Julie has evidenced; all these extensions are within close proximity of a neighbouring door or kitchen window as per our proposal, so we are highly vexed as to why ours has met with such an obdurate stance from the planner. All these extensions we have pictured have been granted by a Fife Council planner; some of them look recent enough, judging by the masonry work etc, so again we fail to see a significant difference in our proposal that could lead to a rubberstamped approval to all the others but a stern no to ours.



Hope these images can help us somewhat,

Thanks again,

Niall

17 Cypress Grove (note side windows on neighbouring property)



22 Lilac Grove (again note the side elevation windows of neighbouring property)



4 Walnut Grove



28 Beech Grove (again a two storey in close proximity to neighbouring kitchen windows etc all approved by Fife Council)



Agenda Item 6(2)

**25 Elm Grove, Dunfermline, KY11 8AA
Application No. 22/02622/FULL**

Representation(s)

Stephanie Skelly

From: Elaine Black [REDACTED] >
Sent: 19 August 2022 08:38
To: Development Central
Subject: 22/02622/FULL

Categories: In Progress

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I refer to the above numbered application for a two storey extension.

I have received notification of the proposed extension to be built within a shared drive way shared by 25 Elm Grove and 27 Elm Grove . I have tried to view the plans on line but they don't give dimensions of how far across the driveway they will come.

The drawing shows the boundary line in red ... which I would query as I think is in part on my drive. The Ordinance Survey shows the boundary as centre point between garages , as does my title deeds.

My concern is by moving the boundary, I will not have access to my Garage and will stop me using my driveway for parking .

I would like to see a more detailed plan of how this will effect the shared drive space and access to my property.

Thank you

Elaine Black

Sent from my iPhone

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Agenda Item 6(3)

**25 Elm Grove, Dunfermline, KY11 8AA
Application No. 22/02622/FULL**

Consultee Comments

Colin Cowper

From: Angela Allison <Angela.Allison@SCOTTISHWATER.CO.UK> on behalf of Planning Consultations <PlanningConsultations@scottishwater.co.uk>
Sent: 16 August 2022 11:54
To: Development Central
Subject: RE: Consultation -22/02622/FULL

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good Morning,

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

For all extensions that increase the hard-standing area within the property boundary, you must look to limit an increase to your existing discharge rate and volume. Where possible we recommend that you consider alternative rainwater options. All reasonable attempts should be made to limit the flow.

No new connections will be permitted to the public infrastructure. The additional surface water will discharge to the existing private pipework within the site boundary.

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

Kind regards,

Angela

Angela Allison

Technical Analyst
North Regional Team
Strategic Development
Development Services

Dedicated Freephone Helpline : 0800 389 0379 Business Email: Angela.Allison@scottishwater.co.uk
Business Weblink: <https://www.scottishwater.co.uk/Business-and-Developers/Connecting-to-Our-Network>

The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow G33 6FB
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Please consider the environment before printing this e-mail.

Agenda Item 6(4)

**25 Elm Grove, Dunfermline, KY11 8AA
Application No. 22/02622/FULL**

Further representations

From: [REDACTED]
To: [Michelle McDermott](mailto:Michelle.McDermott@fife.gov.uk)
Subject: Re: Application No. 22/02622/FULL - 25 Elm Grove, Dunfermline
Date: 02 February 2023 17:15:31

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Good Afternoon Michelle,

Thank you for your contact regarding the proposed extension.

I confirm that my earlier concerns remain. The drawings on the portal do not give clear dimensions on how far the build will come across the shared drive way. In addition to the issue of access to our garage, my husband and I are concerned on the 3 main points below.

1. Loss of light to our Kitchen, Bathroom and Door. Our house is a low Bungalow and the double height extension would block all our light.

2. Will we be able to open our car door on the drive ? if not, it may cause some problems in the future we are both retired [REDACTED]

3. A BIG concern we have , is safety. The drawing shows a gate opening directly onto our Drive. This would be very dangerous for anyone stepping onto our drive when we are driving up it. If the Build was got go ahead , there would need to need to be wall built as barrier to prevent a serious accident.

Please let me know if you need me to clarify any of these points. Hopefully we can get this resolved to everyone's satisfaction.

Yours Sincerely

Elaine Kenny Black

Sent from my iPhone

On 2 Feb 2023, at 15:46, Michelle McDermott
<Michelle.McDermott@fife.gov.uk> wrote:

Dear Ms. Black,

Town & Country Planning (Scotland) Act 1997
The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2013

I refer to the above application, details of which are set out below.

The Council publishes all material relating to planning applications including documents relating to a review on its website at www.fife.gov.uk/planning and you will be able to track the progress of the review on this site.

The applicant has made an application for a review by the Fife Planning Review Body relating to their planning application which has not yet been determined by the Council. The review process was brought in by the above legislation to enable applicants who are dissatisfied that their planning application has not been determined to ask the Review Body to determine the application.

In accordance with the Regulations, I am writing to you to ask if you wish to make any further representations in relation to the review of the original decision. The Review Body will be given copies of your original representations.

If you do wish to do so, you have fourteen days from the date of this notice to make such representations and should do this by sending your comments in writing/email to me.

The applicant will then be sent a copy of these representations and will then be entitled to make comments on those representations which will also be placed before the Local Review Body when it considers the review.

Please note that all documentation in relation to this review, including any representations you may make, will be placed online at www.fife.gov.uk/planning.

A copy of the Notice of Review and other documents related to the review can be viewed online as above.

If you have any queries in relation to the procedure, or anything else, please do not hesitate to contact me.

Yours sincerely,

Michelle McDermott,
Committee Officer.

Note referred to:

Name of Applicant:	Julie Hickey
Address of Site:	25 Elm Grove, Dunfermline, KY11 8AA
Description of Application:	Two storey extension to side of dwellinghouse

Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council
Fife House, North Street,
Glenrothes, Fife, KY7 5LT
Email: michelle.mcdermott@fife.gov.uk

From: [REDACTED]
To: [Michelle McDermott](#)
Subject: Note referred to: Name of Applicant: Julie Hickey Address of Site: 25 Elm Grove, Dunfermline, KY11 8AA
Description of Application: Two storey extension ...
Date: 11 February 2023 18:37:25

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Good Afternoon Michelle,

In view of additional comments added for review, I would like to add a further note to my own comments to be included on the Portal within the 14 day allowed.

Comment —

The 7 photographed examples of other extended properties in the area, are not like for like for comparison to this case. All examples given are either / or single storey extensions, Not low Bungalows, have boundary walls, all extended properties have no access to the back of their property. All examples have not compromised access the neighbouring properties Garage.

Yours faithfully
Elaine Black

Sent from my iPhone

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Agenda Item 6(5)

**25 Elm Grove, Dunfermline, KY11 8AA
Application No. 22/02622/FULL**

Response to further representations

From: [Andrew Megginson](#)
To: [Michelle McDermott](#)
Subject: RE: Application Ref. 22/02622/FULL - 25 Elm Grove, Dunfermline
Date: 03 February 2023 07:47:49
Attachments: [image001.png](#)

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Morning Michelle,

Thanks for this.

I can confirm that the proposals are wholly within the Applicant's land ownership and do not come across any shared drive, see attached title plan.

1 – As per the Hollis report, there will be no detrimental effect to the Neighbour's light.
2 – The width of the Neighbours drive will not be decreased as a result of the proposals. As previously stated, the proposals are wholly within the land ownership of the Applicant and thus the width of the Neighbour's driveway shall not be affected. This was also not raised as a planning concern when we had dialogue with the Planning Officer.
3 – There is no gate opening directly onto the Neighbour's driveway. The gate we believe in question simply opens to a space within the Applicant's ownership at the rear of the proposals and shall be used to access the Applicant's garage. This also was not raised as a planning concern when we had dialogue with the Planning Officer.

Happy for you top progress in arranging a date for the Local Review Body now.

Kind regards,
Andrew Megginson BSc, MArch
Director
Andrew Megginson Architecture
Web www.andrewmegginsonarchitecture.com
Tel 0131 557 9129
Mob 07583 404 422



From: Michelle McDermott <Michelle.McDermott@fife.gov.uk>
Sent: 02 February 2023 17:38
To: Andrew Megginson <Andrew@andrewmegginsonarchitecture.com>
Subject: Application Ref. 22/02622/FULL - 25 Elm Grove, Dunfermline

Dear Mr. Megginson,

I refer to the above and to your application for review. The attached representations have been received from interested parties. You are now entitled to make any comments on these representations to the Local Review Body. You may do so by sending your comments in writing

to me within fourteen days of the date of this email.

Thereafter, your application for review, the representations received, and any comments you have made will be placed before the Local Review Body for decision.

I will write to you again at the end of the fourteen day period referred to above and advise you of the date when the Local Review Body is to consider your case.

Please note that all documentation in relation to this review, including any representations or further comments you may make, can be viewed online at www.fife.gov.uk/planning.

Yours sincerely,

Michelle McDermott.

Michelle McDermott
Committee Officer
Legal and Democratic Services
Fife Council
Fife House, North Street,
Glenrothes, Fife, KY7 5LT
Email: michelle.mcdermott@fife.gov.uk

I am currently working from home
I can be contacted by email at michelle.mcdermott@fife.gov.uk

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Officer's ID / Date

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4/11/1995

TITLE NUMBER

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Scale

1/1250

Survey Scale

1/1250



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Agenda Item 6(6)

**25 Elm Grove, Dunfermline, KY11 8AA
Application No. 22/02622/FULL**

**Comments on National Planning
Framework 4 (NPF4)**

From: [REDACTED]
To: [Michelle McDermott](#)
Subject: Comment to be added to NPF4
Date: 15 March 2023 19:49:29

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**22/02622/FULL – 25 ELM GROVE, DUNFERMLINE, KY11 8AA
FIFE LOCAL REVIEW BODY – 24 APRIL 2023
REQUEST FOR COMMENTS ON NATIONAL PLANNING
FRAMEWORK 4**

In addition to the overwhelming impact the loss of light a double height extension would have on our property (a low built Bungalow), there would be a physical impact on us being able to access our Driveway and Garage.

Within the original planning application , the applicant declared that ALL of the proposed build would be on land owned solely by them. It has now been confirmed that the proposed extension would extend over part of our Driveway... if this happens, it would stop us from parking in our own drive or being able to use our Garage to park our car.

On neighbour (the applicant) has now sold his house, however, we are very concerned that should the planning application be approved, the permission would carry forward to the new owner and we would have this hanging over us for some years to come.

Elaine & Kenneth Black 25, Elm Grove .

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