



Council Offices, Almada Street  
Hamilton, ML3 0AA

Friday, 22 May 2020

Dear Councillor

## **Planning Local Review Body**

The Members listed below are requested to attend a meeting of the above Committee to be held as follows:-

**Date:** Monday, 01 June 2020  
**Time:** 14:00  
**Venue:** By Microsoft Teams,

The business to be considered at the meeting is listed overleaf.

Yours sincerely

**Cleland Sneddon**  
**Chief Executive**

### **Members**

Isobel Dorman (Chair), Mark Horsham (Depute Chair), Alex Allison, Maureen Devlin, Ann Le Blond, Davie McLachlan, Graham Scott, David Shearer, Jim Wardhaugh

### **Substitutes**

John Bradley, Walter Brogan, Jackie Burns, Stephanie Callaghan, Margaret Cowie, Martin Lennon, Katy Loudon, Kenny McCreary, Lynne Nailon, Collette Stevenson

## BUSINESS

### 1 Declaration of Interests

- 2 Minutes of Previous Meeting** 3 - 4  
Minutes of the meeting of the Planning Local Review Body held on 16 December 2019 submitted for approval as a correct record. (Copy attached)

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#### Item(s) for Decision

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- 3 Review of Case - P/19/0873 for Sub-division of Garden Ground and Erection of a one and a half Storey Detached House and Formation of a New Vehicular Access at Land at Tigh-Na-Bruaich, Braehead Road, Thorntonhall, East Kilbride** 5 - 8  
Report dated 4 May 2020 by the Executive Director (Finance and Corporate Resources). (Copy attached)
- 3a Appendix 1 Planning Application Form** 9 - 18
- 3b Appendix 2(a) Report of Handling** 19 - 32
- 3c Appendix 2(b) Consultation Responses** 33 - 42
- 3d Appendix 2(c) Representations** 43 - 50
- 3e Appendix 3 Site Photographs and Location Plan** 51 - 66
- 3f Appendix 4 Planning Decision Notice and Reasons for Refusal** 67 - 74
- 3g Appendix 5 Notice of Review** 75 - 94
- 3h Appendix 6 Further Representations** 95 - 112
- 3i Appendix 7 Applicant's Comments on Further Representations** 113 - 122

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#### Urgent Business

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- 4 Urgent Business**  
Any other items of business which the Chair decides are urgent.

#### ***For further information, please contact:-***

Clerk Name: Pauline MacRae

Clerk Telephone: 01698 454108

Clerk Email: pauline.macrae@southlanarkshire.gov.uk

## PLANNING LOCAL REVIEW BODY (PLRB)

2

Minutes of meeting held in Committee Room 5, Council Offices, Almada Street, Hamilton on 16 December 2019

### Chair:

Councillor Isobel Dorman

### Councillors Present:

Councillor Alex Allison, Councillor Mark Horsham (Depute), Councillor Davie McLachlan, Councillor Graham Scott, Councillor Jim Wardhaugh

### Councillors' Apologies:

Councillor Maureen Devlin, Councillor Ann Le Blond, Councillor David Shearer

### Attending:

#### Community and Enterprise Resources

T Finn, Planning Adviser to the Planning Local Review Body

#### Finance and Corporate Resources

P MacRae, Administration Officer; K Moore, Legal Adviser to the Planning Local Review Body

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## 1 Declaration of Interests

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The following interest was declared:-

<b>Councillor(s)</b>	<b>Item(s)</b>	<b>Nature of Interest(s)</b>
Horsham	Review of Case Application P/19/0316 – Erection of 2 Storey Side Extension with Associated Alterations at 15 Reay Avenue, East Kilbride	Close family member made representation on the application

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## 2 Minutes of Previous Meeting

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The minutes of the meeting of the Planning Local Review Body held on 18 November 2019 were submitted for approval as a correct record.

**The PLRB decided:** that the minutes be approved as a correct record.

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## 3 Review of Case – Application P/19/0316 for Erection of 2 Storey Side Extension with Associated Alterations at 15 Reay Avenue, East Kilbride

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A report dated 3 December 2019 by the Executive Director (Finance and Corporate Resources) was submitted on a request for a review of the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/19/0316 by D Haughey for the erection of a 2 storey side extension with associated alterations at 15 Reay Avenue, East Kilbride.

To assist the PLRB in its review, copies of the following information had been appended to the report:-

- ♦ planning application form
- ♦ report of handling by the planning officer under the Scheme of Delegation
- ♦ site photographs and location plan
- ♦ decision notice

- ◆ notice of review, including the applicant's statement of reasons for requiring the review
- ◆ a further submission from an interested party following notification of the request for the review of the case

The applicant had included, in their review submission, amended plans together with correspondence from their constituency MP in support of the application. Section 43B of the Planning etc (Scotland) Act 2006 restricted the introduction of new material in the review which was not before the appointed person at the time the application was determined.

The Legal Adviser clarified the position on the new information which had not been submitted with the original application and the PLRB concluded that it could not consider this information. Similarly, the PLRB concluded that it could not consider comments from an interested party relating to this information. The PLRB also heard the Planning Adviser in relation to the case.

The relevant drawings in relation to the review were available for inspection prior to and at the meeting of the PLRB.

The PLRB considered it had sufficient information to allow it to proceed to determine the review. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

In reviewing the case, the PLRB considered:-

- ◆ the information submitted by all parties with the exception of the new information detailed above which the PLRB concluded it could not consider
- ◆ the relevant policies contained in the Adopted South Lanarkshire Local Development Plan and associated Supplementary Guidance (SG):-
  - ◆ Policy 4 – development management and place making
  - ◆ Policy 6 – general urban area/settlements
  - ◆ Policy DM2 – House Extensions and Alterations (Development Management Place Making and Design Supplementary Guidance)
- ◆ the relevant policies contained in the Proposed South Lanarkshire Local Development Plan 2:-
  - ◆ Policy 3 – general urban areas and settlements
  - ◆ Policy 5 – development management and place making
  - ◆ Policy DM2 – House Extensions and Alterations

Following its review of the information and after discussion, the PLRB concluded that the proposed development was contrary to Policies 4 and 6 of the Adopted South Lanarkshire Local Development Plan and Policy DM2 of the associated Supplementary Guidance. It also concluded that there were no material considerations that warranted granting planning permission for planning application P/19/0316 contrary to the relevant policies.

**The PLRB decided:** that the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application P/19/0316 by D Haughey for the erection of a 2 storey side extension with associated alterations at 15 Reay Avenue, East Kilbride be upheld.

*Councillor Horsham, having declared an interest in the above review case, withdrew from the meeting during its consideration*

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#### **4 Urgent Business**

There were no items of urgent business.

# Report

3

Report to:	<b>Planning Local Review Body</b>
Date of Meeting:	<b>1 June 2020</b>
Report by:	<b>Executive Director (Finance and Corporate Resources)</b>

Subject:	<b>Review of Case – Application P/19/0873 for Sub-division of Garden Ground and Erection of a one and a half Storey Detached House and Formation of New Vehicular Access</b>
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## 1. Purpose of Report

1.1. The purpose of the report is to present the information currently available to allow a review of the decision taken by officers, in terms of the Scheme of Delegation, on the following application:-

### 1.2. *Summary Application Information*

Application Type:	Detailed Planning Permission
Applicant:	T Swanson
Proposal:	Sub-division of Garden Ground and Erection of a one and a half Storey Detached House and Formation of a New Vehicular Access
Location:	Land at Tigh-Na-Bruaich, Braehead Road, Thorntonhall G74 5AQ
Council Area/Ward:	09 East Kilbride West

### 1.3. *Reason for Requesting Review*

☒

Refusal of Application

☐

Conditions imposed

☐

Failure to give decision (deemed refusal)

## 2. Recommendation(s)

2.1. The Planning Local Review Body is asked to:-

- (1) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
  - (a) it proceeds to determine whether the decision taken in respect of the application under review should be upheld, reversed or varied
  - (b) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed
- (2) in the event that further procedure is required to allow it to determine the review, consider:-

- (a) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided
- (b) what procedure or combination of procedures are to be followed in determining the review

### 3. Background

- 3.1. The Council operates a Scheme of Delegation that enables Council officers to determine a range of planning applications without the need for them to be referred to Area Committees or the Planning Committee for a decision.
- 3.2. In terms of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013, where an application for planning permission relates to a proposal that falls within the category of "local development" and has been or could have been determined under the Scheme of Delegation, the applicant is entitled to request that the determination be reviewed by the Planning Local Review Body.

### 4. Notice of Review – Statement of Reasons for Requiring the Review

- 4.1. In submitting their Notice of Review, the applicant has stated their reasons for requiring a review of the determination in respect of their application. **(Refer Appendix 5)**
- 4.2. The applicant is entitled to state a preference for procedure (or combination of procedures) to be followed and has indicated that their stated preference is as follows:-

<input type="checkbox"/>	Further written submissions	<input type="checkbox"/>	Site inspection
<input type="checkbox"/>	Hearing session(s)	<input checked="" type="checkbox"/>	Assessment of review documents only, with no further procedure

- 4.3. However, members will be aware that it is for the Planning Local Review Body to determine how a case is reviewed.

### 5. Information Available to Allow Review of Application

- 5.1. Section 43B of the Planning etc (Scotland) Act 2006 restricts the ability of parties to introduce new material at the review stage. The focus of the review should, therefore, be on the material which was before the officer who dealt with the application under the Scheme of Delegation.
- 5.2. The following information is appended to this report to assist the Planning Local Review Body in its review of the decision taken by officers:-
  - ◆ Planning Application Form **(Appendix 1)**
  - ◆ Report of Handling by the Planning Officer under the Scheme of Delegation **(Appendix 2(a))**
  - ◆ Copies of submissions from statutory consultees **(Appendix 2(b))**
  - ◆ Copies of representations **(Appendix 2(c))**
  - ◆ Site photographs and location plan **(Appendix 3)**
  - ◆ Decision notice **(Appendix 4)**
  - ◆ Notice of Review including statement of reasons for requiring the review **(Appendix 5)**

5.3. Copies of the relevant drawings are available for inspection by contacting Administration Services prior to the meeting.

## **6. Notice of Review Consultation Process**

6.1. 3 further submissions, including a Statement of Observations from the Planning Officer on the applicant's Notice of Review, were received in the course of the 14 day period from the date on which notification of the request for a review of the case was given. These are listed at and attached as **Appendix 6**.

6.2 The applicant had the opportunity to comment on the further representations received. Comments from the applicant's agent are contained in the submission attached as **Appendix 7**.

**Paul Manning**

**Executive Director (Finance and Corporate Resources)**

4 May 2020

## **Link(s) to Council Values/Ambitions/Objectives**

- ◆ Work with communities and partners to promote high quality, thriving and sustainable communities
- ◆ Accountable, effective, efficient and transparent

## **Previous References**

None

## **List of Background Papers**

- ◆ Guide to the Planning Local Review Body

## **Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

Pauline MacRae, Administration Officer

Ext: 4108 (Tel: 01698 454108)

E-mail: pauline.macrae@southlanarkshire.gov.uk





# Appendix 1

3a

## Planning Application Form



Montrose House 154 Montrose Crescent Hamilton ML3 6LB Tel: 0303 123 1015 Email: [planning@southlanarkshire.gov.uk](mailto:planning@southlanarkshire.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 100167543-001

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)

Erection of detached dwellinghouse

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:	DTA Chartered Architects Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	DTA	Building Name:	
Last Name: *	Chartered Architects Ltd	Building Number:	9
Telephone Number: *		Address 1 (Street): *	Montgomery Street
Extension Number:		Address 2:	The Village
Mobile Number:		Town/City: *	East Kilbride
Fax Number:		Country: *	Scotland
		Postcode: *	G74 4JS
Email Address: *			
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	T	Building Number:	9
Last Name: *	Swanson	Address 1 (Street): *	Montgomery Street
Company/Organisation		Address 2:	The Village
Telephone Number: *		Town/City: *	East Kilbride
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	G74 4JS
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

South Lanarkshire Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Land at Tigh-Na-Bruaich Braehead Road Thorntonhall G74 5AQ

Northing

Easting

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☒ Yes ☐ No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

☒ Meeting ☐ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

No feedback received

Title:

Mrs

Other title:

First Name:

Tina

Last Name:

Meikle

Correspondence Reference  
Number:

Date (dd/mm/yyyy):

22/05/2019

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

1573.00

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)

Garden ground

## 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?

0

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)? \*

3

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?? \*  
(e.g. SUDS arrangements) \*

☒

Yes

☐

No

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.

<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>
<h2 style="margin-top: 0;">Assessment of Flood Risk</h2> <p>Is the site within an area of known risk of flooding? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</span></p> <p>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.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</span></p>
<h2 style="margin-top: 0;">Trees</h2> <p>Are there any trees on or adjacent to the application site? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>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.</p>
<h2 style="margin-top: 0;">Waste Storage and Collection</h2> <p>Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes or No, please provide further details: * (Max 500 characters)</p> <div style="border: 1px solid black; height: 60px; margin-top: 5px; padding: 5px;">Please see plans</div>
<h2 style="margin-top: 0;">Residential Units Including Conversion</h2> <p>Does your proposal include new or additional houses and/or flats? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>How many units do you propose in total? * <span style="float: right; border: 1px solid black; padding: 2px 10px;">1</span></p> <p>Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.</p>
<h2 style="margin-top: 0;">All Types of Non Housing Development – Proposed New Floorspace</h2> <p>Does your proposal alter or create non-residential floorspace? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p>
<h2 style="margin-top: 0;">Schedule 3 Development</h2> <p>Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 * <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't Know</span></p> <p>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.</p> <p>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.</p>

## 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: DTA Chartered Architects Ltd

On behalf of: Mr T Swanson

Date: 31/05/2019

☒ 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)

Site Sections

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. \*

☒ Yes ☐ N/A

A Flood Risk Assessment. \*

☐ Yes ☒ N/A

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

☐ Yes ☒ N/A

Drainage/SUDS layout. \*

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. \*

☐ Yes ☒ N/A

Habitat Survey. \*

☐ Yes ☒ N/A

A Processing Agreement. \*

☐ Yes ☒ N/A

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

## Declare – For Application to Planning Authority

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

Declaration Name: Miss Katie MacMillan

Declaration Date: 31/05/2019

## Payment Details

Cheque: DTA Chartered Architects Ltd, 011334

Created: 31/05/2019 15:44

# Appendix 2

3b

## Report of Handling

Report dated 4 November 2019 by the Council's Authorised Officer under the Scheme of Delegation



	<b>Delegated Report</b>	Reference no.	P/19/0873
			<b>3b</b>
		Date	4 Nov 2019

<b>Planning proposal:</b>	Subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and the retention and improvement of the existing vehicular access
<b>Location:</b>	Tigh Na Bruaich Braehead Road Thorntonhall Glasgow South Lanarkshire G74 5AQ

**Application Type :** Detailed planning application

**Applicant :** Mr T Swanson  
**Location :** Tigh Na Bruaich  
Braehead Road  
Thorntonhall  
Glasgow  
South Lanarkshire  
G74 5AQ

**Decision:** Application refused

**Report by:** Area Manager (Planning & Building Standards)

#### Policy reference:

#### South Lanarkshire Local Development Plan (adopted 2015)

Policy 4 Development management and placemaking  
Policy 6 General urban area/settlements

#### Development Management, Placemaking and Design Supplementary Guidance (2015)

Policy DM1 Design  
Policy DM3 Sub-division of garden ground

#### Proposed South Lanarkshire Local Development Plan 2

Policy 3 General Urban Areas  
Policy 5 Development Management and Placemaking  
Policy DM1 New Development Design  
Policy DM3 Sub-division of garden ground

#### Assessment

Impact on privacy?	Yes
Impact on sunlight/daylight?	Yes
Impact on amenity?	Yes
Traffic issues?	No
Adheres to development plan policy?	No
Adverse comments from consultees?	No

**Representation(s):**

▶	3	Objection letters
▶	0	Support letters
▶	0	Comment letters

## **Planning Application Delegated Report**

### **1 Application Site**

- 1.1 The application site relates to a detached dwellinghouse known as Tigh-na-Bruaich and its garden ground on the north side of Braehead Road, Thorntonhall. The site is bounded by two storey detached dwellings on Ardbeg Lane, to the northeast, and by Braehead Road to the south with two detached residential properties beyond. To the northwest, a detached one and a half storey house was approved, as a previous sub-division of the garden of Tigh-Na-Bruaich, under Planning Reference No. EK/15/0203. This consented dwelling is currently being constructed. The remains of a mature hawthorn hedge and shrubs bound the site with Braehead Road and the existing vehicular access consists of a gravel drive with entrance walls and gates set back from the road. This access was required to be removed under a recent consent (reference EK/16/0273) for the formation of a new driveway for the existing house and has not to date been removed. The site is relatively level in its southern half with the northern section becoming steeply sloping downwards towards its northern boundary where crib walling retention and planting exists along the rear boundary of the gardens of the dwellinghouses on Ardbeg Lane, which sit at a lower level, some 6 to 8 metres lower than the existing house.

### **2 Proposal(s) and Background**

- 2.1 The applicant seeks detailed planning permission for the subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and the retention and improvement of the existing vehicular access to serve the new dwellinghouse.
- 2.2 The proposed dwelling would utilise Tigh-Na-Bruaich's existing vehicular access which would be widened with the existing gates and walls removed. As stated above the existing dwelling is now accessed via a recently constructed vehicular access from Braehead Road (Planning Consent EK/16/0273). The proposed dwelling provides accommodation on the ground floor of living room, family dining kitchen room with sun lounge, utility, study and cloakroom/wc. On the upper floor in the roof space 3 double bedrooms one with ensuite, family bathroom, a master bedroom suite with ensuite would be provided. The house would be situated adjacent to the original dwelling on the eastern part of the site. The external materials proposed are render with stone features around the windows, stone and brick base layer, stone chimney feature, timber windows and dark concrete roof tiles.
- 2.3 The property has been the subject of a number of applications for residential development. An application in 2013 (EK/13/0362) for subdivision of the garden ground and construction of two detached dwellings was refused and a subsequent appeal to the Scottish Government (PPA-380-2046) was dismissed. In 2015 an application (EK/15/0203) for a detached dwelling to the north of the existing dwelling was granted consent and is under construction at present. In 2016 planning consent (EK/16/0273) was granted for the formation of a new access to the existing house. Also in 2016 an application (EK/16/0289) for the erection of a detached dwelling on the current application site was refused.

- 2.4 The current proposal is of similar size and scale to the previous proposed dwelling. It has been reoriented and relocated on the site being positioned further away from Braehead Road although closer to properties in Ardbeg Lane. The dwelling is of a similar footprint although the overall height of the dwelling has increased by over 1 metre to 7.5 metres from ground level. The proposed dwelling is of a more traditional design than the previous proposal and has full sized windows on the upper floor rather than velux windows as in the previous proposal.

### **3 Consultation(s)**

- 3.1 **Roads Flood Risk Management** – No objections to the proposed development.  
**Response:** Noted.
- 3.2 **Jackton & Thorntonhall Community Council** - No response to date.
- 3.3 **West of Scotland Archaeology Service** – No objections to the proposed development as the developed area does not extend as far as the kilns and quarry and as a result, is unlikely to affect any of these industrial remains, consequently, archaeological work is not necessary.  
**Response:** Noted.
- 3.4 **Environmental Services** – No objections to the proposed development subject to a condition being attached to any consent in respect of limitation of construction noise.  
**Response:** Noted.
- 3.5 **Roads Development Management Team** - Requested further information and plans detailing the design of the proposed access, visibility splays, a new footway to the east and 3 no. parking spaces. This information has been requested and has yet to be provided, however the view is taken that the current application is unacceptable and therefore the information has not been requested again.  
**Response:** Noted.

### **4 Representation(s)**

- 4.1 Statutory neighbour notification was undertaken. Following this, 3 letters of objection were received. The issues raised in these representations can be summarised as follows:
- 4.2 (a) **Loss of privacy and overlooking.**  
**Response:** The plans show that the one and a half storey house has been positioned further away from Braehead Road than the position of the previously refused proposal, reducing any potential loss of privacy or overlooking with properties on Braehead Road. This relocation has resulted in the proposed dwelling being located closer to the rear elevations of No 9 and 11 Ardbeg Lane. It is therefore considered that the dwellinghouse would still have a dominant presence in relation to the dwellings to the rear due to the significant ground level change. Although the applicant has planted a buffer of mixed trees and shrubs



along the rear boundary of the site, the planting which has taken place is mainly deciduous and will not provide sufficient screening in the autumn and winter months. It is therefore agreed that the new dwelling and useable garden ground, despite being one and a half storey in height, would overlook the dwellings to the rear and in particular, the properties at 9 and 11 Ardbeg Lane.

(b) **Overshadowing and loss of amenity.**

**Response:** A shadow test which the Council undertook demonstrated that, despite the dwelling being one and a half storey and being positioned further away from Braehead Road than the position of the previously refused proposal, an overshadowing problem would still occur towards late afternoon during spring and autumn given the fact that the land is significantly higher than the existing dwellings in Ardbeg Lane, and that conservatories exist on some of the Ardbeg Lane houses.

(c) **Proposals fall outwith and is contrary to the Development Plan policies.**

**Response:** The proposal has been assessed against the relevant Local Plan policies including DM3. This is set out in Section 4 of the report. It is concluded that the proposal fails to comply with local plan policy in terms of loss of residential amenity and character to the surrounding area.

(d) **The previous decision of the Reporter reference PPA-380-2046 and the Council reference EK/16/0289 relating to previous applications should be taken into account, and in particular the conclusion that ‘the impacts on the privacy enjoyed by the adjacent properties on Ardbeg Lane are significant and unacceptable’.**

**Response:** Each application is considered on its own merits. Due to the level change between the site and Ardbeg Lane, the new dwelling would have an adverse impact on the amenity of the adjacent dwellings.

(e) **The tree planting which the applicants may argue is a screen is not being maintained and is growing rapidly, now causing lack of light.**

**Response:** Noted.

(f) **While the proposed house is only a storey and a half, it would be built directly in front of No 47 Braehead Road, and would directly face into a main living area, sitting area and bedroom level, resulting in privacy problems.**

**Response:** The dwelling is sited such that it meets with the minimum required window to window distance with the property to the south of Braehead Road, No. 47 Braehead Road. The distance between the proposed dwelling and No. 47 Braehead Road is over 21 metres, to the closest point.

(g) **Braehead Road is very narrow and during the construction period closure of Braehead Road may be required inconveniencing local residents.**

**Response:** In this instance the principle of development of this site is considered unacceptable. Notwithstanding this, these matters would normally be covered by condition if the Council was minded to grant consent.

## 5 Assessment and Conclusions

- 5.1 The applicant seeks detailed planning permission for the subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and the retention and improvement of the existing vehicular access to serve the new dwellinghouse. The main considerations in determining this application are its compliance with local plan policy, its impact on the amenity and character of the surrounding residential area and road/pedestrian safety and the previous planning application and planning appeal history of the site.
- 5.2 In terms of the South Lanarkshire Local Development Plan (adopted 2015), Policies 4 – Development Management, DM1 - Design and, DM3 – Sub Division of Garden Ground are applicable. Policies 4 and DM1 resist any development that would be detrimental to residential amenity and that all planning applications should take account of the local context and built form. All development should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity. Notwithstanding the height of the dwelling being of one and a half storey scale, and the position of the dwelling in the plot, due to the elevated nature of the site in relation to the dwellings located to the north on Ardbeg Lane, it is considered that the proposal would have an adverse impact in amenity terms on these adjacent dwellings. As such, the proposal does not fully comply with these two policies.
- 5.3 Policy DM3 states that there will be a presumption against development within the curtilage of an existing dwelling unless certain criteria can be met. The proposal has been assessed in detail against the criteria as follows:
- (a) **That the proposed house is of a scale, massing, design and material sympathetic to the character and pattern of the area and does not result in a development which appears cramped, visually obtrusive or of an appearance which is out of keeping with the established character that is harmful to the amenity of the area;**
- While it is accepted that dwellings of this footprint and scale do exist within the surrounding area, it is considered that in this instance this house type would still be dominant in relation to the adjacent dwellings in Ardbeg Lane given the contours of the site. It is considered that a dwelling of this footprint would appear incongruous in relation to the existing Tigh-Na-Bruaich, which is a much larger unit set further back from Braehead Road with generous garden ground. In addition the resulting plot would have a limited area of useable level garden ground and would be an irregular shape.
- (b) **The proposed house plot and that remaining to the existing house is comparable with those nearby in terms of size shape and amenity, the proposal accords with the established pattern of development in the surrounding area;**
- The new house plot resulting from the subdivision of the garden ground of Tigh-na-Bruaich is smaller than that of the existing house, and is irregular in shape. There are substantial levels differences in relation to surrounding, established development, and it is considered that the plot would not be comparable with the existing dwelling in terms of amenity and plot positioning.

- (c) **The proposed house should have a proper road frontage of comparable size and form with those of surrounding curtilages;**  
In terms of providing a proper road frontage, the existing vehicular access would be altered to serve the proposed dwelling. An entirely new access has been formed from Braehead Road, to serve the existing dwelling. It is accepted that access for the proposed dwelling could be achieved provided sightlines can be shown to be achievable through the submission of additional engineering drawings.
- (d) **That the proposed vehicular access should be of an adequate standard and should not have any adverse implications for traffic safety or adversely affect the amenity of adjacent properties;**  
The existing vehicular access would be altered to serve the proposed dwelling. An entirely new access has been formed from Braehead Road, to serve the existing dwelling. It is accepted that access for the proposed dwelling could be achieved provided sightlines can be shown to be achievable through the submission of additional engineering drawings.
- (e) **The garden space of the proposed house and remaining for the existing house should be sufficient of the recreational, amenity and drying needs of the occupants;**  
The dwelling has been positioned in such a way on the plot to attempt to achieve useable garden ground for the new dwelling. It is evident from a site inspection however, that the land falls steeply to the north rendering several metres unsuitable for recreational use. It is of concern that in order to achieve level useable garden ground substantial regrading, retaining features and or decked areas may be introduced which would exacerbate privacy issues with neighbouring properties.
- (f) **That the new development will not cause an unacceptable reduction in privacy to surrounding houses as well as the new house itself;**  
Due to the scale and proximity of the proposed dwelling and the fact that it would sit at a higher level than the existing adjacent houses located to the north, it is considered that there would be an unacceptable impact on residential amenity and a potential for a privacy issue to arise in some dwellings to the rear as a result of the use of any patio or decked area within the new dwelling's garden.
- (g) **That the new development will not overshadow adjacent properties to a degree which will result in loss of amenity or itself be significantly adversely affected by overshadowing;**  
The Council has undertaken a shadow study to ascertain if there is an overshadowing issue with the dwellings located to the north. The sun path diagrams show the shadow cast in the afternoon in spring, autumn and winter months. When the height difference between the proposed dwelling and the existing properties in Ardbeg Lane is taken into account, an overshadowing issue would exist, during the spring, autumn and winter months.
- (h) **That all existing features such as trees, hedges etc that contribute to the character of the area will be retained;**

In order to meet the Council's Roads & Transportation Service requirements, a footpath along the Braehead Road frontage of the application site would be required to be constructed. This would entail the removal of the mature hawthorn hedgerow and established ornamental shrubs together with regrading, thus resulting in a detrimental effect on the rural character of this part of Braehead Road.

- (i) **That adequate parking can be provided for both the proposed and the existing house, and must not be harmful to the character of the established character and amenity of the area;**

In respect of the proposed and the existing dwelling adequate on-curtilage parking is achievable.

- (j) **That the new development must not jeopardise any further desirable development in the area;**

It is not considered that the proposal would jeopardise further development in this area.

- (k) **The proposal should take account of any supplementary guidance prepared by the Council, where relevant;**

The proposal has been assessed above against the relevant Supplementary Guidance.

5.4 The above assessment against Policy DM3, demonstrates that the proposal is contrary to criteria (a), (b), (e), (f), and (g) as detailed above.

5.5 On 29<sup>th</sup> May 2018 the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. The new plan builds on the policies and proposals contained in the currently adopted South Lanarkshire Local Development Plan. For the purposes of determining planning applications the proposed South Lanarkshire Local Development Plan 2 is now a material consideration. In this instance Policies 3, 5, DM1 and DM3 are relevant and the proposal has been assessed as set out above against these policies.

5.6 Residential proposals for this site have been subject of detailed discussion between that Council's Planning Service and the applicant and his agent through previous applications which the applicant withdrew or the Council refused, most recently in December 2016 (reference EK/16/0289). The applicant appealed the decision in respect of the refusal of application EK/13/0362, in 2014 which was dismissed by the Reporter. While it was concluded by the Reporter that the proposal complied in general terms with the development plan, it was considered that the adverse impacts on privacy enjoyed by the adjacent properties on Ardbeg Lane were significant and unacceptable. The refusal of the similar application in 2016 (reference EK/16/0289) was not appealed by the applicant who has chosen to submit this current application. The current proposal is similar to the application refused in 2016. It is of a similar size and scale although it has been reoriented and relocated on the site. The overall height of the proposed dwelling has increased. It remains the view of the Planning Service that the development is unacceptable in amenity terms.

- 5.7 In conclusion, careful consideration of this proposal has been undertaken and although the site is located within an area designated for residential land use and the house is one and a half storey design, given the difference in ground levels, it is considered that this development would be detrimental to the amenity of the surrounding area due to the mass and scale of the proposed dwelling and its over dominance with the adjacent existing dwellings to the north. A shadow test which the Council undertook demonstrated that an overshadowing problem would still occur in the afternoon in spring, autumn and winter months. Furthermore, in order to achieve safe pedestrian linkage with the rest of Thorntonhall, a footpath along the site frontage would require to be constructed which would result in the removal of a mature hawthorn hedge and other shrubs/vegetation, together with regrading which is considered undesirable in amenity terms. In this regard, the proposal is not deemed to be in accordance with the Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and also Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2. As such it is recommended that the application is refused.

## **6 Reason for Decision**

- 6.1 The proposal would have an adverse impact on the amenity of the surrounding residential area and is contrary to Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and the associated Supplementary Guidance and contrary to Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.

**Delegating officer: G Rae**

**Date: 5.11.19**

### **Previous references**

- ◆ Planning Application EK/13/0143 - Withdrawn
- ◆ Planning Application EK/13/0362 - Refused
- ◆ Planning Appeal PPA-380-2046 - Dismissed
- ◆ Planning Application EK/14/0285 – Withdrawn
- ◆ Planning Consent EK/15/0203
- ◆ Planning Consent EK/16/0273
- ◆ Planning Application EK/16/0289 - Refused

### **List of background papers**

- ▶ Application Form
- ▶ Application Plans
- ▶ South Lanarkshire Local Development Plan 2015 (adopted)
- ▶ Proposed South Lanarkshire Development Plan 2
- ▶ Neighbour notification letter dated 02.07.2019
  
- ▶ Consultations

WOSAS	04.07.2019
Roads Development Management Team	12.07.2019
Environmental Services	11.07.2019
Roads Flood Risk Management	16.09.2019

► Representations

Alex Galbarait, 9 Ardbeg Lane, Thorntonhall, Glasgow, G74 5DA, Dated:  
17.07.2019

Peter And Teresa Lovebkrands, 47 Braehead Road, Thorntonhall, Glasgow, South Lanarkshire, G74 5AQ Dated:  
17.07.2019

Kirsty Munro, 11 Ardbeg Lane, Thorntonhall, Glasgow, G74 5DA, Dated:  
16.07.2019

**Contact for further information**

If you would like to inspect the background papers or want further information, please contact:-

Morag Neill, Planning officer, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB  
Phone: 01698 455053  
Email: morag.neill@southlanarkshire.gov.uk

## Planning Application

Application number: P/19/0873

### Reasons for refusal

01. In the interests of amenity in that the proposed development by virtue of its size and location in relation to the adjacent properties would be out of character with and would constitute an over dominant form of development within the immediate locality.
02. The proposal is contrary to Policy 4, DM1 and DM3 of the adopted South Lanarkshire Local Development Plan and Policy 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2 in that the proposed development would not make a positive contribution to the character and appearance of the environment, would not relate satisfactorily to adjacent surrounding development and would have a significant adverse impact on the amenity of the adjacent dwellings.
03. The proposal is contrary to Policy DM3 of the adopted South Lanarkshire Local Plan as it does not comply with criteria (a), (b), (e), (f) and (g) of the said Policy and Policy DM3 of the proposed South Lanarkshire Local Development Plan 2 as it does not comply with criteria 1, 2, 5, 6 and 7 of the said Policy.
04. The proposal is contrary to Policy 4 of the adopted South Lanarkshire Local Development Plan and Policy 5 of the proposed South Lanarkshire Local Development Plan 2 as it would have a significant adverse impact on adjacent properties in terms of privacy and amenity and would adversely affect the rural character of the area.

### Reason(s) for decision

The proposal would have an adverse impact on the amenity of the surrounding residential area and is contrary to Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and the associated Supplementary Guidance and contrary to Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.

### Informatives

01. This decision relates to drawing numbers:

Reference	Version No:	Plan Status
L(0-)01 REV A LOCATION PLAN	A	Refused
L(0-)02 REV A PROPOSED SITE PLAN PLOT	A	Refused
L(2-)01 PROPOSED GROUND FLOOR PLAN PLOT 2	-	Refused
L(2-)02 PROPOSED FIRST FLOOR PLAN	-	Refused
L(2-)03 PROPOSED	-	Refused

ELEVATIONS PLOT 2

L(0-)10 SITE SECTIONS -

Refused



## Consultation Responses

- ◆ Response dated 21 June 2019 from Roads and Transportation Services
- ◆ Response dated 3 July 2019 from West of Scotland Archaeology Service (WOSAS)
- ◆ Response dated 10 July 2019 from Environmental Services
- ◆ Response dated 15 July 2019 from Roads Flood Risk Development Services



**SOUTH LANARKSHIRE COUNCIL  
ROADS AND TRANSPORTATION SERVICES**

**OBSERVATIONS ON PLANNING APPLICATION**

**3c**

Planning Application No: P/19/0873

Dated: 21 June 2019

Received: 04/07/19

Applicant: Mr T Swanson

Contact: Chris Hall

Proposed Development: Erection of a two storey detached dwelling house and formation of a new vehicular access

Ext: 4295

Location: Tigh Na Bruich, Braehead Road, Thorntonhall, G74 5AQ

Case officer: Morag

Type of Consent: Full

No(s) of drg(s) submitted: As per portal

Neill

Proposals Acceptable?	Y or N
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**1. EXISTING ROADS**

(a) General Impact of Development	Y
(b) Type of Connection(s) (road junction/footway crossing)	Y
(c) Location(s) of Connection(s)	Y
(d) Sightlines (.....)	N
(e) Pedestrian Provision	N

**2. NEW ROADS**

(a) Width(s) (.....)	N/A
(b) Layout (horizontal/vertical alignment)	N/A
(c) Junction Details (locations/radii/sightlines)	N/A
(d) Turning Facilities (circles/hammerheads)	N/A
(e) Pedestrian Provision	N/A
(f) Provision for PU Services	N/A

**3. SERVICING & CAR PARKING**

(a) Servicing Arrangements/Driveways	N
(b) Car Parking Provision (.....)	N
(C) Layout of Parking Bays/Garages	N

**4. RECOMMENDATION**

(a) No Objections	N
(b) No Objections Subject to Conditions	N
(c) Refuse	N
(d) Defer Decision	Y
(e) SOID to advise	N

Item ref	Comments
1a, 1b & 1c	This application is for the further sub-division of the grounds of Tigh Na Bruich, this dwelling was previously subdivided to form a housing plot in 2015, see ref: EK/15/0203. A new access was formed for the existing dwelling under ref: EK/16/0273. Braehead Road has a 30mph speed limit and is lit.
1d	No information has been provided on the visibility splays. The plans need to show splays of 2.5m x 43m are achievable in each direction, the splay to west only needs to reach the corner. Within these splays nothing over 900mm in height i.e. trees, shrubs & walls is permitted, these look to be achievable, once the new footway is constructed.
1e	A new 2m wide footway should be provided from the footway constructed under ref: EK/16/0273 to the east end of the site frontage. Approx. 12m east of the lighting column, this column will likely have to be relocated to the rear of the new footway, but this should be discussed with SLC Street Lighting first. The construction of this new footway would require a Road Opening Permit, Section 56 of the Roads (Scotland) Act 1984 from the Roads Authority.
3a	The existing access, to be used by the new dwelling, is currently loose stone chippings, this should be sealed for the first 2m from the rear of the new 2m wide footway.
3a & 3b	No design information have been provided for the existing access, from the drawings it appears to be widened. The applicant should provide new drawings fully dimensioned, showing the parking spaces, walls and gates (width & relative to road).
3b	For a dwelling with this number of bedrooms, 3 parking spaces of 3m x 6m each need to be shown on the plans. The Design Statement refers to 4 parking spaces, while the application states 3 spaces.
	P.T.O.

THE APPLICANT MUST BE ADVISED OF THE FOLLOWING: -

(i) Construction Consent (S21)*	Not Required
(ii) Road Bond (S17)*	Not Required
(iii) Road Opening Permit (S56)*	Required
(iv) Dropped Kerb (S56)*	Required

\* Relevant Section of the Roads (Scotland) Act 1984

Signed: \_\_\_\_\_  
Engineering Manager

Date: \_\_\_\_\_

**SOUTH LANARKSHIRE COUNCIL  
ROADS AND TRANSPORTATION SERVICES**

**OBSERVATIONS ON PLANNING APPLICATION  
CONTINUATION SHEET**

Planning Application No: P/19/0873

Dated: 04/07/19

Contact: Chris Hall

Item Ref	Comments
Note	A drainage system capable of preventing any water from flowing onto the public road or into the site from the public road or surrounding land to be provided and maintained at the applicant's expense.
Note	Developer is responsible for any alterations required to statutory undertaker's apparatus. (Standard condition 07.34)
Note	Any detritus material carried from the site on to the public road network to be cleared by the applicant on a daily basis.
Note	<p>Failure to comply with these conditions could result in the applicant being served notice under <b>Section 99</b> of the <b>Road (Scotland) Act 1984</b> and contact being made with Police Scotland, who have enforcement powers under the <b>Road Traffic Act</b>.</p> <p><b>This service would recommend a deferral of this application, to allow time to address the points detailed in items; 1d / 1e / 3a / 3a &amp; 3b / 3b.</b></p>

Signed: \_\_\_\_\_  
Engineering Manager

Date: \_\_\_\_\_

Our ref: 7/3/11/Cons 39460  
Your ref: P/19/0873  
WoSASdoc: 19\_00873.doc  
Date: 3 July 2019  
Contact: Martin O'Hare  
Direct dial: 0141 287 8333

## WEST of SCOTLAND ARCHAEOLOGY SERVICE



Planning & Economic Development, Community and Enterprise  
Resources  
Montrose House  
154 Montrose Crescent  
Hamilton  
ML3 6LB

231 George Street, Glasgow, G1 1RX  
Tel: 0141 287 8330  
enquiries@wosas.glasgow.gov.uk

Dear Sir or Madam,

**Re: Planning Application P/19/0873 - Erection of a two storey detached dwelling house and formation of a new vehicular access, Tigh Na Bruaich, Braehead Road, Thorntonhall**

I refer to the above application for planning consent, which was sent to the West of Scotland Archaeology Service on the 2<sup>nd</sup> of July. I have downloaded details of the proposal from the Council's online planning system, and having compared these against information contained in the Historic Environment Record (HER), with available cartographic sources, and with previous planning casework, I would advise that it appears unlikely to raise a substantive archaeological issue.

As you will be aware, the ground affected by the application lies within an Archaeological Consultation Trigger (ACT), which in this instance has been defined in relation to a large industrial lime kiln that formerly existed within the grounds of the gate lodge on the southern side of Braehead Road. Two kilns, together with a limestone quarry, were shown on the 1<sup>st</sup> edition Ordnance Survey map of the mid 19<sup>th</sup> century. Limited evaluation of the site undertaken in 2003 indicated that this was likely to be a feature of some industrial significance, but it appears that it may have been removed by construction of a new house in the recent past. The area of ground that is proposed for development under the current application does not extend as far as the kilns and quarry that were shown on the 1<sup>st</sup> edition, and as a result, is unlikely to affect any of these industrial remains. Consequently, I would not consider archaeological work to be necessary in relation to the present proposal.

Yours faithfully

West of Scotland Archaeology Service





3c

Community & Enterprise Resources  
Executive Director Michael McGlynn  
Fleet and Environmental Services

To:	Planning & Building Standards Services	Our Ref.	AXD/397766
		Your Ref.	P/19/0873
CC:		If Calling Ask for	Alan Dickson
From:	Alan Dickson	Phone	01698 454849
		Date.	10 July 2019

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Subject:	Application Ref:	<b>P/19/0873</b>
	Address:	<b>Tigh Na Bruich Braehead Road Thorntonhall Glasgow G74 5AQ</b>
	Proposed Development:	<b>Erection of a two storey detached dwellinghouse and formation</b>

I refer to the above planning application consultation and would comment as follows;

I have no objections to the proposal subject to the following conditions;

#### **Noise 18. Construction Noise (BS 5228)**

The applicant shall ensure that all works carried out on site are carried out in accordance with the current BS5228:2009, 'Noise control on construction and open sites'. Prior to commencement of construction activities a detailed report identifying the projected noise impact at the nearest noise sensitive receptors shall be provided in accordance with the standard. The imissions at the Noise Sensitive Receptor shall be cumulative and shall include mobile and stationary plant and equipment. The noise from any haul roads on site shall also be included. Corrections shall be made for variables such as the operating time and the relative cumulative impact value. This shall be corrected for attenuation and shall be provided as an LAeq.1hr to be compared with either the pre-existing background level or using the ABC table within the British Standard.

The applicant shall further ensure that audible construction activities shall be limited to, Monday to Friday 8.00am to 7.00pm, Saturday 8.00am to 1.00pm and Sunday – No audible activity. No audible activity shall take place during local and national bank holidays - without the prior written approval of the planning authority.

Under exceptional conditions the above time restrictions may be further varied subject to written agreement with the council as Planning Authority.

I would also request that if the application is approved, then the following advisory note is attached to the decision notice for the applicant's information;

Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB Phone: 08457 406080  
Minicom: 01698 454039 Email: <officename>@southlanarkshire.gcsx.gov.uk





**Community & Enterprise Resources  
Executive Director Michael McGlynn  
Fleet and Environmental Services**

Should you require any further information, please contact Alan Dickson .

**Alan Dickson  
Environmental Health Officer.**

Montrose House, 154 Montrose Crescent, Hamilton ML3 6LB Phone: 08457 406080  
Minicom: 01698 454039 Email: <officename>@southlanarkshire.gcsx.gov.uk







3c

**Community and Enterprise Resources**  
Executive Director **Michael McGlynn**  
**Roads and Transportation Services – Transportation Engineering**

## Memo

<b>To:</b>	Area Manager Planning and Building Standards (East Kilbride) (f.a.o. Morag Neill)	<b>Our ref:</b>	TEM/39/49/EK
		<b>Your ref:</b>	P/19/0873
<b>cc:</b>	Area Manager – Roads (East Kilbride)	<b>If calling ask for:</b>	David Molloy
		<b>Phone:</b>	01698 453615
<b>From:</b>	David Molloy Flood Risk Management	<b>Date:</b>	15/09/2019

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**Subject: P/19/0873 – Tigh Na Bruich, Braehead Road, Thorntonhall**

I refer to your planning application consultation dated 2 July 2019. I confirm I have reviewed all available information in regards to this application.

I can advise that I have no objection to the proposed development in regards to Flood Risk Management.

I trust this is acceptable to you however should you wish to discuss this matter further, please contact David Molloy on 01698 453615.



# Appendix 2(c)

3d

## Representations

### Representation From

- ◆ Kirsty Munro, 11 Ardbeg Lane, Thorntonhall G74 5DA
- ◆ Alex Galbraith, 9 Ardbeg Lane, Thorntonhall G74 5DA
- ◆ Peter and Tessa Lovenkrands, by email

### Dated

11/07/19  
14/07/19  
16/07/19



COMMUNITY * ENTERPRISE RESOURCES	
Montrose House	
RECEIVED:	
12 JUL 2019	
Allocated to:	
File Ref:	

11 ARDBEG LANE  
THORNTON HALL  
GLASGOW  
G74 5DA

Planning and Economic Development  
Montrose House  
154 Montrose Crescent  
Hamilton  
ML3 6LB

11th July 2019

Dear Sirs

Re: planning application reference P/19/0873. Objection to the proposals.

The groups for objection are -

- 1- loss of privacy and overlooking
- 2- overshadowing and loss of general amenity
- 3- proposals fall out with the defined policies of the adopted local plan.

I refer to the planning application outlined above which represents a revised proposal of the previous planning applications numbered EK/13/0362, EK/13/1043, EK/14/0285 and EK/16/0289 two of which were withdrawn and two of which were refused. I wish to once again register my strong objection to these proposals on a number of significant groups including loss of privacy and overlooking, overshadowing, loss of sunlight and general amenity in addition to the proposals falling out with the clearly defined policies which are set out within the current adopted local plan.

The proposed two story dwelling would be to the south east of my property and as such would lie in the direct sun path as it sweeps from east to west. Given the site levels, the outline of the proposed building will form a new horizon and will as such reduce the daylight available to my property and number 9. This will be made worse in the winter months when the sun path is even lower in the sky. Therefore, these proposals do not meet the requirements of overshadowing and represent a severe loss of amenity. The tree planting which the applicants may argue is a screen is not being maintained and is growing rapidly and is now causing lack of light, and, as they are predominately deciduous they will provide no screening in the winter months.

To conclude, I would hope that the only appropriate decision would be to refuse the application in its entirety.

Yours faithfully

A large black rectangular box redacting the signature of Kirsty Munro.

Kirsty Munro

COMMUNITY ENTERPRISE RESOURCES	
Montrose House	
RECEIVED:	
16 JUL 2019	
Allocated to:	
File Ref:	

3d

9 ARDBEG LANE  
THORNTONHALL  
GLASGOW  
G74 5DA

Planning and Economic Development  
Montrose House  
154 Montrose Crescent  
Hamilton  
ML3 6LB

14 July 2019

Dear Sirs,

**Planning Application Reference - P/19/0873**  
**Objection**

I refer to the above mentioned planning application for the erection of a two storey detached dwelling house and formation of a new vehicular access and hereby wish to register an objection.

The principal grounds of objection are :-

1. Contrary to Local Development Plan policies.
2. Loss of privacy.
3. Overlooking
4. Overshadowing and loss of amenity.

**Contrary to Local Development Plan policies etc.**

In 2014 Planning Application EK/13/0362 was refused consent and was the subject of an appeal to the Scottish Ministers. The appeal (ref PPA-380-2046) was dismissed and the reasons given by the Reporter in the Decision Notice remain pertinent (see paragraph 14) and should be given due regard in determination of the current application.

I would also make reference to Planning Application EK/16/0289 for a one and a half storey building which was refused consent and as the proposed two storey building will have a much greater adverse impact on my property it should be refused consent for the same reasons.

**Loss of Privacy and Overlooking.**

Due to the large difference in ground levels between the proposed development site and my property and the relative proximity of the two buildings there will be a significant loss of privacy as a result of general overlooking.

It should be noted that the site sections submitted with the application do not accurately show the distances nor height differences between the proposed building and 9 and 11 Ardbeg Lane.

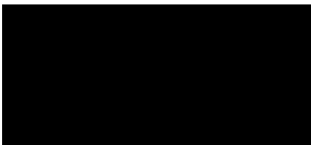
In the Design Statement submitted with the Application there is reference to foliage and trees on the north boundary of the application site and it should be noted that these are largely deciduous and therefore provide no screening during the winter months (this was also referred to in the Appeal Decision Notice).

**Overshadowing**

Again due to the difference in site levels the proposed two storey building will have an impact similar to a five storey building and being almost due south of 9 and 11 Ardbeg will block out the low level winter sun. This is an unacceptable impact on my property.

In conclusion I would respectfully request that the Application is refused consent.

Yours faithfully,



Alex Galbraith



**From:** Teresa Patterson <[REDACTED]>  
**Sent:** 16 July 2019 17:11  
**To:** Planning  
**Subject:** Neighbour notification notice

3d

Ref: P/19/0873  
Email on behalf of Peter & Teresa Lovenkrands  
47 Braehead Road  
Thorntonhall  
G74 5AQ

We are writing with regards to the above neighbour notification notice. We have already received a similar notice a few years ago and having thoroughly assessed the plans via your website our reservations remain exactly the same. Our family home is directly in front of the new proposed house this will mean it will look directly onto our living area and bedrooms overlooking and into the most used part of our home and a complete loss of our privacy. The road outside our house is a very narrow one with 2 larger cars struggling to pass each other at best of times how would this work with lorries and diggers? We have two young children so building work and any affected road closures in such close proximity is a major concern given this is the only route we use for work and school every day. There is no parking areas around at all so any larger vehicles will almost certainly cause road closures. Our privacy is very important to us and we feel very strongly that the proposed house will have a huge affect on that.

Thank you for your time

Peter & Teresa Lovenkrands

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## **Appendix 3**

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**Site photographs and location plan**



**Photo 1**





Photo 2





**Photo 3**



Photo 4





**Photo 5**



**Photo 6**





**Photo 7**



**Photo 8**





**Photo 9**



**Photo 10**





**Photo 11**





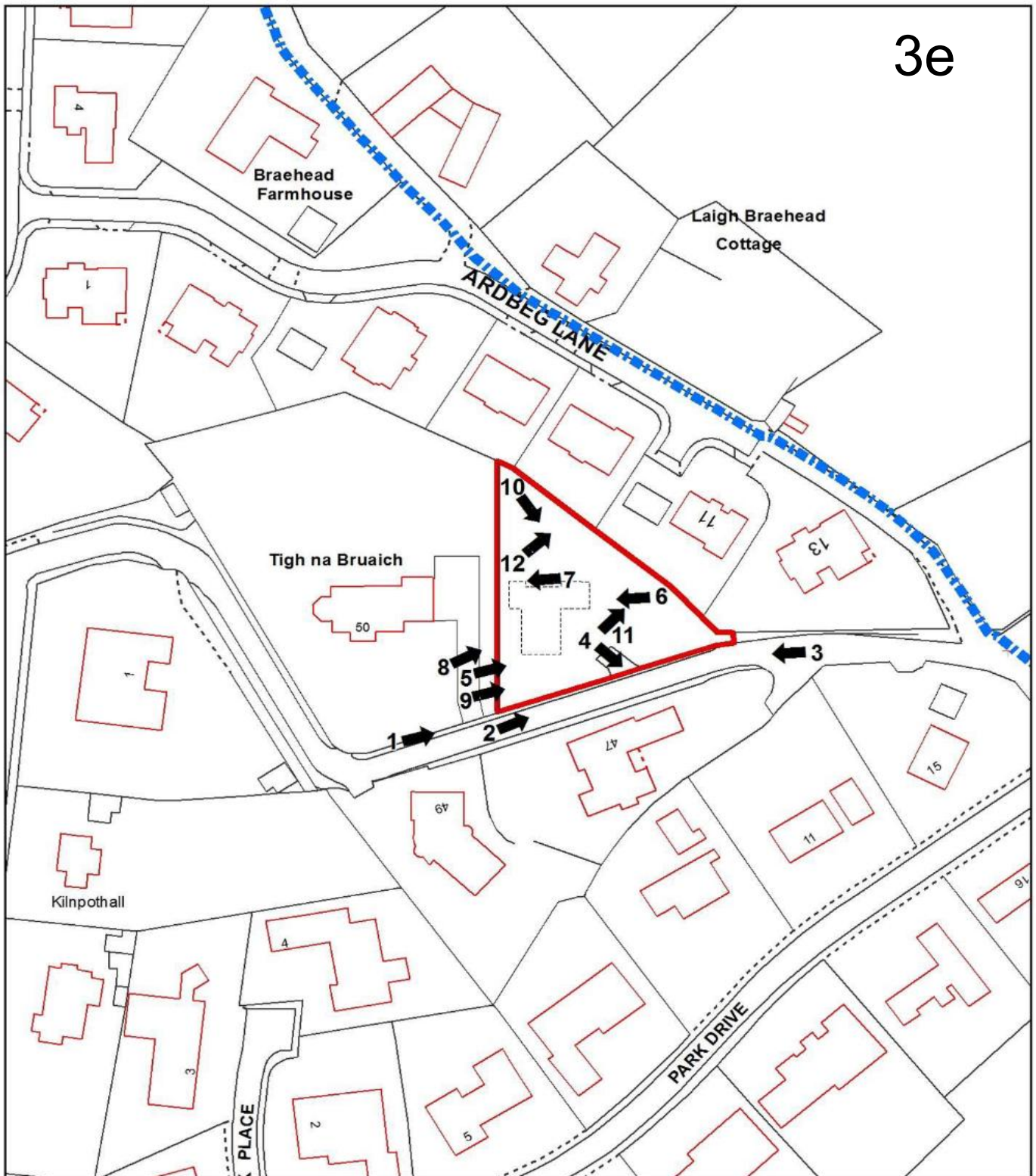
**Photo 12**





Planning Review for application P/19/0873  
Proposed dwelling, Braehead Road, Thorntonhall

3e



This map indicates from where photographs were taken



Community and Enterprise Resources  
Planning and Economic Development



Scale: 1:1,250

Date:

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## **Appendix 4**

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### **Planning Decision Notice and Reasons for Refusal**





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**Community and Enterprise Resources**  
Executive Director **Michael McGlynn**  
**Planning and Economic Development**

DTA Chartered Architects Ltd  
9 Montgomery Street  
The Village  
East Kilbride  
G74 4JS

Our Ref: P/19/0873  
Your Ref:  
If calling ask for: Morag Neill  
Date: 8 November 2019

Dear Sir/Madam

**Proposal:** Subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and formation of a new vehicular access

**Site address:** Tigh Na Bruich, Braehead Road, Thorntonhall, Glasgow, South Lanarkshire, G74 5AQ,

**Application no:** P/19/0873

I would advise you that the above application was refused by the Council and I enclose the decision notice which sets out the reasons for refusal. Please note that the Council does not issue paper plans with the decision notice. The application is refused in accordance with the plans and any other documentation listed in the reasons for refusal imposed on the accompanying decision notice and which can be viewed using the Council's online planning application search at [www.southlanarkshire.gov.uk](http://www.southlanarkshire.gov.uk)

If you require a hard copy of the refused plans, please contact us quoting the application number at [planning@southlanarkshire.gov.uk](mailto:planning@southlanarkshire.gov.uk).

If you consider that you can overcome the reasons for refusal and that it is not the principle of the development that is unacceptable, you may submit an amended application. If you do amend your proposals and re-apply within one year of this refusal, then you will not have to pay a fee, provided the proposal is of the same character or description as the application which has just been refused.

As your application has been refused, you may appeal against the decision within 3 months of the date of the decision notice. The attached notes explain how you may appeal.

Should you have any enquiries relating to the refusal of your application or a potential amended submission, please contact Morag Neill on 01698 455053

The Planning Service is undertaking a Customer Satisfaction Survey in order to obtain feedback about how we can best improve our Service to reflect the needs of our customers. The link to the survey can be found here:

If you were the applicant: <http://tinyurl.com/nrtqmy6>

If you were the agent: <http://tinyurl.com/od26p6g>

Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB  
Email [morag.neill@southlanarkshire.gov.uk](mailto:morag.neill@southlanarkshire.gov.uk) Phone: 01698 455053



We would be grateful if you would take a few minutes to answer the questions in the survey based on your experience of dealing with the Planning Service in the past 12 months. We value your opinion and your comments will help us to enhance areas where we are performing well, but will also show us where there are areas of the service that need to be improved.

I do hope you can take part in this Customer Survey and look forward to receiving your comments in the near future. If you prefer to complete a paper version of the survey, please contact us by telephone on 0303 123 1015, selecting option 7, quoting the application number. We will send you a copy of the survey and a pre-paid envelope to return it.

Yours faithfully

**Head of Planning and Economic Development**

Enc:

## Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006

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To: **Mr T Swanson**

Per: **DTA Chartered Architects Ltd**

**C/O DTA Chartered  
Architects, 9 Montgomery  
Street, The Village, East  
Kilbride, G74 4JS,**

**9 Montgomery Street  
The Village  
East Kilbride  
G74 4JS**

With reference to your application received on 03.06.2019 for planning permission under the above mentioned Act:

**Description of proposed development:**

Subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and formation of a new vehicular access

**Site location:**

Tigh Na Bruich, Braehead Road, Thorntonhall, Glasgow, South Lanarkshire, G74 5AQ,

---

SOUTH LANARKSHIRE COUNCIL in exercise of their powers under the above mentioned Act hereby:

**REFUSE PLANNING PERMISSION**

for the above development in accordance with the plan(s) specified in this decision notice and the particulars given in the application, for the reason(s) listed overleaf in the paper apart.

---

Date: 8th November 2019

**Head of Planning and Economic Development**

---

This permission does not grant any consent for the development that may be required under other legislation, e.g. Building Warrant or Roads Construction Consent.

**South Lanarkshire Council  
Community and Enterprise Resources  
Planning and Economic Development**

## **South Lanarkshire Council**

### **Refuse planning permission**

**Paper apart - Application number: P/19/0873**

#### **Reason(s) for refusal:**

01. In the interests of amenity in that the proposed development by virtue of its size and location in relation to the adjacent properties would be out of character with and would constitute an over dominant form of development within the immediate locality.
02. The proposal is contrary to Policy 4, DM1 and DM3 of the adopted South Lanarkshire Local Development Plan and Policy 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2 in that the proposed development would not make a positive contribution to the character and appearance of the environment, would not relate satisfactorily to adjacent surrounding development and would have a significant adverse impact on the amenity of the adjacent dwellings.
03. The proposal is contrary to Policy DM3 of the adopted South Lanarkshire Local Plan as it does not comply with criteria (a), (b), (e), (f) and (g) of the said Policy and Policy DM3 of the proposed South Lanarkshire Local Development Plan 2 as it does not comply with criteria 1, 2, 5, 6 and 7 of the said Policy.
04. The proposal is contrary to Policy 4 of the adopted South Lanarkshire Local Development Plan and Policy 5 of the proposed South Lanarkshire Local Development Plan 2 as it would have a significant adverse impact on adjacent properties in terms of privacy and amenity and would adversely affect the rural character of the area.

#### **Reason(s) for decision**

The proposal would have an adverse impact on the amenity of the surrounding residential area and is contrary to Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and the associated Supplementary Guidance and contrary to Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.



## Notes to applicant

**Application number: P/19/0873**

### Important

The following notes do not form a statutory part of this decision notice. However, it is recommended that you study them closely as they contain other relevant information.

01. This decision relates to drawing numbers:

<b>Reference</b>	<b>Version No:</b>	<b>Plan Status</b>
L(0-)01 REV A LOCATION PLAN	A	Refused
L(0-)02 REV A PROPOSED SITE PLAN PLOT	A	Refused
L(2-)01 PROPOSED GROUND FLOOR PLAN PLOT 2	-	Refused
L(2-)02 PROPOSED FIRST FLOOR PLAN	-	Refused
L(2-)03 PROPOSED ELEVATIONS PLOT 2	-	Refused
L(0-)10 SITE SECTIONS	-	Refused



## **Appendix 5**

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**Notice of Review (including Statement of Reasons for Requiring the Review) submitted by applicant Mr T Swanson**



Montrose House 154 Montrose Crescent Hamilton ML3 6LB Tel: 0303 123 1015 Email: [planning@southlanarkshire.gov.uk](mailto:planning@southlanarkshire.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 100167543-003

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:	<input type="text" value="DTA Chartered Architects Limited"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="DTA Chartered"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Architects"/>	Building Number:	<input type="text" value="9"/>
Telephone Number: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Montgomery Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text" value="The Village"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="East Kilbride"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
		Postcode: *	<input type="text" value="G74 4JS"/>
Email Address: *	<input type="text"/>		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="T"/>	Building Number: <input type="text" value="9"/>
Last Name: *	<input type="text" value="Swanson"/>	Address 1 (Street): * <input type="text" value="Montgomery Street"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text" value="The Village"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="East Kilbride"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="G74 4JS"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text"/>	

## Site Address Details

Planning Authority:	<input type="text" value="South Lanarkshire Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Land at Tigh-Na-Braich Braehead Road Thorntonhall G74 5AQ"/>	
Northing <input type="text"/>	Easting <input type="text"/>

## 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)

Subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and formation of a new vehicular access

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

Please see supporting documents for the Statement of Case.

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

☐ Yes ☒ No

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

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

Statement of Case

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

P/19/0873

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

03/06/2019

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

08/11/2019

## 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: . DTA Chartered Architects

Declaration Date: 06/02/2020

06.02.2020

Dear Sir/Madam

**Local Review Body**

**Section 43A(8) of The Town and Country Planning (Scotland) Act 1997 (as amended)  
in respect of decisions on local developments**

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

**The Town and Country Planning (Appeals) (Scotland) Regulations 2013**

**Statement of Case: Planning Reference, P/19/0873 - Subdivision of garden ground and  
the erection of a one and a half storey detached dwelling house and the retention and  
improvement of the existing vehicular access.**

**Introduction**

This Review presented before Members, relates to the Planning Authority's refusal of an application for detailed planning permission for the subdivision of garden ground and the erection of a one and a half storey detached dwelling house along with the retention and improvement of the existing vehicular access at the residential Property known as Tigh Na Bruaich, Braehead Road, Thorntonhall, G74 5AQ.

The Applicant (now Appellant) Mr T Swanson, is the proprietor of the said Property. The date of refusal shown on the refusal letter is the 8<sup>th</sup> of November 2019.

The Appellant has instructed this request for a Review of the Planning Authority's aforementioned refusal of detailed planning permission.

The Appellant is seeking Members to uphold his request that detailed planning permission is granted subject to appropriate conditions.

This document with enclosures constitutes the Appellant's Statement of Case.

**Brief Description of the Proposed Development and the Application Site**

The Appellant seeks detailed planning permission for the subdivision of the eastern garden ground associated with the two-storey dwelling house known as Tigh-Na-Bruaich. This is to allow the erection of a one and a half storey detached dwelling house within the subdivided garden.

**Hendersons Surveyors, East Netherton, Milnathort, Kinross KY13 0SB**





The proposal is located within the settlement boundary as defined within the adopted Local Development Plan.

The proposed dwelling would benefit from its own access/driveway, utilising the original access to Tigh-Na-Bruaich directly from Braehead Road. This access would be widened and the gates/walls removed. Multi car parking will be provided within the proposed plot boundary. Please note that original dwelling of Tigh-Na-Bruaich currently utilises a newly constructed vehicular access which was granted planning permission in 2016.

The proposed dwelling house is substantial and would provide spacious family accommodation akin to many homes within the settlement of Thorntonhall. There would be a ground floor living room, family dining kitchen room (with sun lounge), utility, study and cloakroom/wc. On the upper floor in the roof space would be 3 double bedrooms (one with ensuite) and a large master bedroom suite (with ensuite) and a master bathroom.

The external materials proposed are akin to many properties within the Thorntonhall area featuring render with stone features around the windows, stone and brick base layer, stone chimney feature, timber windows and dark roof tiles.

The Property of Tigh-Na-Bruaich and particularly its garden ground, has been the subject of previous planning applications and a planning appeal. These have been the focus of significant debate with the Planning Authority. However, in 2015 planning consent was granted (planning reference: EK/15/0203) for the subdivision of garden ground and the erection of a detached dwelling within the western garden area of Tigh-Na-Bruaich. That house is under construction at present.

Accordingly, the Appellant now simply wishes to establish planning consent within the eastern garden area on a very similar basis to that consented in the western garden area.

To enable this the current proposal has been reoriented and redesigned to help mitigate previous concerns raised by the Planning Authority about inter alia privacy and overbearing appearance. It is also of a more traditional design than the previous proposals put forward to the Planning Authority.

The application site is bounded to the north by two storey detached dwellings within the Cala housing estate on Ardbeg Lane and to the south by Braehead Road and two detached residential properties beyond that. There is an existing amenity planting strip, along the northern boundary of the application site.

The application site is relatively level. The rear gardens of the properties in Ardbeg Lane sit at a lower level than the garden ground of Tigh-Na-Bruaich, there being a marked drop off in levels beyond the northern application boundary. As you might expect, the gardens in Arbeg Lane also sit lower than the curtilages of both the recently consented dwelling within the western garden ground of Tigh-Na-Bruaich and of course Tigh-Na-Bruaich itself.

**Hendersons Surveyors, East Netherton, Milnathort, Kinross KY13 0SB**



Accordingly, the proposed dwelling house has a very similar relationship to the properties in Ardbeg Lane.

A limited remaining length of mature hawthorn hedge and shrubs/vegetation bound on Braehead Road. Previously, roadside hedge was removed at Tigh-Na-Bruaich to allow construction of the pavements that were required by the Planning Authority associated with the new house consented within the western garden area and the new driveway access consented for Tigh-Na-Bruaich. Some additional new planting has been incorporated at these locations.

There will be no loss of trees or important or protected flora and fauna as a result of the proposal.

A copy of the drawings that supported the application are enclosed. In particular the "Proposed Site Plan, Plot 2" clearly shows the relationship between properties described above.

#### **Outcome of Consultation/Neighbour Notification and the Planning Authority's Grounds for Refusal**

As part of the determination process a consultation and neighbour notification process was undertaken.

This resulted in only three letters of objection from neighbours. The issues raised in these representations (as taken from the Planning Authority's Delegated Report) can be summarised as follows:

- Loss of privacy and overlooking, particularly regarding the properties to the rear (north) in Ardbeg Lane.
- Overshadowing and loss of amenity.
- Proposals are contrary to the Development Plan policies.
- The previous planning history should be taken into account, in particular that the impacts on the privacy enjoyed by the adjacent properties on Ardbeg Lane are significant and unacceptable.
- The tree planting which the applicants may argue is a screen is not being maintained and is growing rapidly, now causing lack of light.
- Whilst the proposal is only a storey and a half, it would be directly in front of No 47 Braehead Road resulting in privacy problems.



- Braehead Road is very narrow and during the construction period closure of Braehead Road may be required inconveniencing local residents.

#### Planning Authority's Reasons for Refusal of Application

The four reasons for refusal and the reason(s) for decision given within the Planning Authority's letter of refusal are shown below:

#### **Reasons for refusal**

01. In the interests of amenity in that the proposed development by virtue of its size and location in relation to the adjacent properties would be out of character with and would constitute an over dominant form of development within the immediate locality.
02. The proposal is contrary to Policy 4, DM1 and DM3 of the adopted South Lanarkshire Local Development Plan and Policy 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2 in that the proposed development would not make a positive contribution to the character and appearance of the environment, would not relate satisfactorily to adjacent surrounding development and would have a significant adverse impact on the amenity of the adjacent dwellings.
03. The proposal is contrary to Policy DM3 of the adopted South Lanarkshire Local Plan as it does not comply with criteria (a), (b), (e), (f) and (g) of the said Policy and Policy DM3 of the proposed South Lanarkshire Local Development Plan 2 as it does not comply with criteria 1, 2, 5, 6 and 7 of the said Policy.
04. The proposal is contrary to Policy 4 of the adopted South Lanarkshire Local Development Plan and Policy 5 of the proposed South Lanarkshire Local Development Plan 2 as it would have a significant adverse impact on adjacent properties in terms of privacy and amenity and would adversely affect the rural character of the area.

#### **Reason(s) for decision**

The proposal would have an adverse impact on the amenity of the surrounding residential area and is contrary to Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and the associated Supplementary Guidance and contrary to Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.

The Planning Authority further summarised their reasoning for refusal in para 5.7 of their Delegated Report as follows: *"In conclusion, careful consideration of this proposal has been undertaken and although the site is located within an area designated for residential land use and the house is one and a half storey design, given the difference in ground levels, it is considered that this development would be detrimental to the amenity of the surrounding area due to the mass and scale of the proposed dwelling and its over dominance with the adjacent existing dwellings to the north. A shadow test which the Council undertook*

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*demonstrated that an overshadowing problem would still occur in the afternoon in spring, autumn and winter months. Furthermore, in order to achieve safe pedestrian linkage with the rest of Thorntonhall, a footpath along the site frontage would require to be constructed which would result in the removal of a mature hawthorn hedge and other shrubs/vegetation, together with regrading which is considered undesirable in amenity terms. In this regard, the proposal is not deemed to be in accordance with the Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and also Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2. As such it is recommended that the application is refused."*

### **Analysis of the Planning Authority's Reasons for Refusal and Appellant's Grounds for Appeal**

The Planning Authority's reasons for refusal refer largely to general policies designed to protect the character of the area and amenity in its various forms.

Much of the Planning Authority's case is centred upon the proposal dominating the houses to the rear in Arbeg Lane to such an extent that this breaches minimum levels of amenity. The Planning Authority advises that it had conducted a shadow test indicating the proposal will overshadow the houses to the rear to an unacceptable level. Further, that the construction of the new pavement will result in the loss of a hedge, shrubs and vegetation and that amenity will be adversely affected by this to such an extent to part justify refusal of the application.

There is quite a complicated planning history to the property at Tigh-Na-Bruaich and to some degree the Appellant feels positions have become entrenched.

Therefore, in an attempt to bring objectivity and focus back to the assessment of the current proposal in planning terms, a "back to basics" planning assessment is offered below. There is cross reference to some comments made by the Planning Authority within their Delegated Report, although this has been limited in order to ensure some brevity. Points 6, 7 and 8 may be of most interest to Members.

#### **Planning Assessment of Proposal**

**1. Will the proposed access result in unacceptable noise/disturbance to adjoining residents?**

No. An access currently exists and there is more than adequate stand-off from other dwellings within the area. This combined with the fact that the driveway serves only the proposed dwelling, will ensure that there is no unacceptable noise/disturbance to adjoining residents.



2. **Will the proposed access result in an unacceptable loss of privacy to adjoining residents?**

No. As mentioned at point 1 above there is good clearance between the driveway and other dwellings within the area. That combined with the fact that the driveway serves only the proposed dwelling house, will ensure that there is no unacceptable loss of privacy to adjoining residents.

3. **Are there adequate vehicle turning facilities within the application site to avoid vehicles reversing onto the existing carriageway?**

Yes. Multi car parking is to be provided, which allows vehicles to access and egress in forward gear.

4. **Will the proposed dwelling give rise to an unacceptable increase in the number of individual access points onto the carriageway?**

No. An access already exists and sufficient geometry including sight lines can be provided to ensure that it can operate safely in combination with any other accesses and road users.

5. **Will the proposed access have an adverse impact on the current accesses, turning and parking facilities benefiting adjacent dwellings?**

No (refer to point 4 above).

6. **Privacy**

a. **Will the proposed dwelling result in an unacceptable loss of privacy for adjoining occupiers?**

b. **Will there be an unacceptable loss of privacy for the occupier of the proposed dwelling from adjoining dwelling houses?**

c. **Is the proposed plot of sufficient size to ensure a reasonable standard of privacy for the residents of the proposed dwelling and surrounding residents?**

The above questions are related and it is more coherent to consider them jointly.

Other than in isolated rural locations, few households can claim not to be overlooked to some extent. Plot size, the orientation of dwellings and their gardens, access arrangements, building height and the location/design of windows along with their related accommodation uses, normally determine whether acceptable privacy standards can be provided.

Regarding the Appellant's proposal the Planning Authority have determined that a sufficient standard of privacy for neighbours can be achieved to the south across Braehaed Road and to the west for Tigh-Na-Bruaich. Also, that the proposed

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dwelling would benefit from a sufficient level of privacy itself. There are no dwellings to the east.

However, they consider that the privacy of properties to the rear in Ardbeg Lane would be adversely impacted. This is because the application site sits at a higher level than those in Arbeg Lane and the Planning Authority have concerns that if a raised patio or deck area was constructed in the future within the rear garden of the proposed dwelling, then that could cause a potential privacy issue. There are no window to window privacy implications. Window to window distances being circa 24m or greater between the rear elevation of the proposal and the rear elevations of the houses within Arbeg Lane.

The Appellant feels that there is a high degree of inconsistency with the Planning Authority's decision making relating to overlooking garden ground in this case.

The houses in Ardbeg were granted planning permission by the Planning Authority in the full knowledge that they would sit substantially lower than the garden ground of the residential Property of Tigh-Na-Bruaich - **but that was deemed acceptable**.

Additionally, the Planning Authority subsequently granted planning permission in 2015 for a dwelling within the western garden of Tigh-Na-Bruaich. The size and nature of that plot along with its level difference in relation to the properties in Ardbeg are all very similar to the proposed plot - **but that was deemed acceptable**.

The Planning Authority's concerns focus to a large part on whether there might be the construction of a garden deck in the future which could result in the overlooking of properties in Arbeg. However, they will be aware that it is illegal to construct a deck or other raised platform in the rear garden of a dwelling if the floor level will exceed 0.5m. Additionally, it is possible for the Planning Authority to apply a condition to the consent which removes the permitted development rights to construct any raised deck or indeed any other structure within the garden ground, which would be enforceable.

Further, it is evident that the recent planning permission for the dwelling within the western garden of Tigh-Na-Bruaich had a condition applied that stipulated that no development shall take place within the curtilage of the application site other than that expressly authorised by this permission without the submission of a further planning application to the Council as Planning Authority. That was applied by the Planning Authority to mitigate their concerns relating to garden elevation, privacy and the like, substantially the same concerns raised in relation to the currently proposed dwelling.

It is not readily identifiable why such a condition could not simply be applied to a planning permission for the proposed dwelling. The privacy implications are on balance no greater for the subject proposal - **this is most irregular**.

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Members should note that the Appellant would be willing to agree an appropriate landscaping scheme incorporating trees/hedges that grow to self-limiting heights along the boundary with the properties in Ardbeg which may further put the Planning Authority's mind at ease. On that point the Planning Authority will also be aware of the High Hedges regulations that are now at their disposal to control the height of such trees/hedges on boundaries if planted. Therefore, risk of persistent nuisance is negligible with this.

The Appellant cannot not understand given the aforementioned why the subject application was to be refused (in part) for failing to meet minimum privacy standards for neighbours.

This confusion is heightened as the Appellant is aware of other consents deemed acceptable by the Planning Authority which exhibit similar if not worse elevated garden and associated overlooking characteristics.

Members may find it convenient to look at the rear gardens of the houses built within the grounds of the old village school in East Kilbride for instance, along what is now called Old Mill Road (Planning Reference: EK/06/0004). Many of these new dwellings have rear garden grounds that sit some metres higher than the rear gardens of the older properties in Old Coach Road which they abut. This can clearly be viewed from Old Coach Road itself. In that instance the Planning Authority's Report indicated that *"it is acknowledged that there is a difference in ground levels between Old Coach Road and the application site. However, the proposed dwellings are at least 20m from the closest property which is considered to be a sufficient distance to avoid overlooking and a sense of enclosure"*.

Essentially, there is no justification for the Planning Authority to apply different minimum privacy standards from one residential site to another – **this is most irregular**.

7. **Amenity**

**a. Will the scale, form or location of the proposed dwelling have an adverse effect on residential amenity for adjoining dwellings?**

**b. Is the proposed plot of sufficient size to ensure a reasonable standard of amenity to the proposed and surrounding residents?**

The above questions are related and it is more coherent to consider them jointly.

The issue of privacy is an important part of residential amenity and has been covered largely in point 6 above.

Noise and general disturbance created by a proposed use is an important factor when considering residential amenity. The possible impact of the proposed access in this respect has been dealt with in points 1 and 2 above and is acceptable.

The proposed use is residential in nature. Therefore, background noise should remain low. Notably, there is no balcony or roof terrace proposed which can in some instances cause concerns with regards to elevated noise/general disturbance.

Dominance is another important aspect to consider when assessing a proposal's impact on residential amenity. In this respect the proposed dwelling sits within a relatively large plot and is sufficiently set back from adjoining properties, as has been interrogated within point 6 above. Consequently, the proposed dwelling does not significantly adversely impinge on the immediate aspect or outlook of any adjoining properties and does not dominate outward views such that it appears excessively large or overbearing.

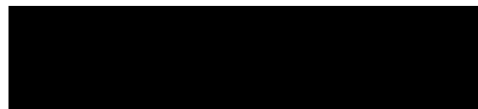
The possibility of over shadowing and loss of light are also important factors to consider relating to residential amenity. In this respect the Planning Authority believes *"that this development would be detrimental to the amenity of the surrounding area due to the mass and scale of the proposed dwelling and its over dominance with the adjacent existing dwellings to the north. A shadow test which the Council undertook demonstrated that an overshadowing problem would still occur in the afternoon in spring, autumn and winter months."*

It is important to stress that the houses in Ardbeg were granted planning permission and purchased in the full knowledge that they sit substantially lower than the garden ground of Tigh-Na-Bruaich. Also, Tigh-Ma-Bruaich comprises of a two-storey house which is higher than the currently proposed dwelling. Additionally, the Planning Authority subsequently granted planning permission in 2015 for a dwelling within the western garden ground of Tigh-Na-Bruaich. The size and nature of that plot and the consented dwelling along with its level difference in relation to the properties in Ardbeg are all very similar to that exhibited by the current proposal.

Additionally, the shadow test undertaken by the Planning Authority has not been provided to the Appellant, nor is there a copy available on the Council's eplanning website. If that is to be relied upon so heavily, it should at least have been made available to the applicant to review at the time of determination of the application. This is a legal process which to a large degree is required to be played out in the public domain, in order to ensure openness and fairness. Therefore, secrecy has no part to play in this.

**Respectfully, it is requested that the Appellant is furnished with a copy of this shadow test including all relevant technical background information, in order that its veracity can be considered by the Appellant's agents and that the Appellant is given the opportunity to make comment prior to the Review.**

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**The Appellant's agents will require up to 10 business days to consider this and if needs be undertake their own shadow test.**

**8. Will the form and location of the proposed development have an adverse effect on the character, form and appearance of the adjoining area/settlement?**

No. The density of development proposed is not significantly higher than that found in many parts of Thorntonhall and indeed is equivalent to or greater than some plots in the area. It is also important to note that spacing between existing buildings is not compromised by the proposed dwelling.

Further, the design of the proposed dwelling and pattern of development created by it is entirely in keeping with the overall character and environmental quality of the locale. In this regard the scale, height and massing of the proposal integrates/blends well with the varied nature of dwellings in the village.

The Planning Authority have indicated within their Delegated Report that the ...*"new house plot resulting from the subdivision of the garden ground of Tigh-na-Bruaich is smaller than that of the existing house, and is irregular in shape...and it is considered that the plot would not be comparable with the existing dwelling in terms of amenity and plot positioning."*

However, house types in Thorntonhall vary considerably in terms of height and footprint. The garden grounds vary in size, shape and level. Indeed, Thorntonhall exhibits one of the most varied collections of house types and plot shapes in South Lanarkshire, partly as a function of the number of individually built dwellings such as the one proposed. Accordingly, for example there are two storey houses next to bungalows, older houses next to newer houses, regular shaped plots next to irregular shaped plots – the list goes on. The plot size being proposed is still substantial. Respectfully, the Planning Authority's position appears once again to be unsupported by the facts.

Further, it is important to note that the proposed dwelling mimics to a degree the already consented dwelling to the west of Tigh-na-Bruaich. Indeed, viewed from the perspective of Braehead Road with Tigh-na-Bruaich at the centre point, the proposal creates a certain degree symmetry and feels very much as if it should have been part of the planned design solution from the beginning.

The Planning Authority have also argued that..."*in order to achieve safe pedestrian linkage with the rest of Thorntonhall, a footpath along the site frontage would require to be constructed which would result in the removal of a mature hawthorn hedge and other shrubs/vegetation, together with regrading which is considered undesirable in amenity terms."*

The hedge referred to can in no way be characterised as locally significant in amenity terms - the loss of any remaining hedge or shrubs will not adversely affect the local

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environment such that the possibility of their removal should form any part of a reason for refusal of the application. At the end of the day the Planning Authority are aware that the site lies within the settlement boundary. All residents within Thorntonhall and any other settlement can cut, remove, plant etc hedges and shrubs within their gardens as they see fit. Respectfully, this argument has the hallmarks of a Planning Authority grasping at straws and attempting to create impediments to development that on balance simply do not exist.

In summary it is therefore difficult to characterise the proposed development as out of character with the area. The proposal takes cognisance of and reflects the local context, drawing inspiration from them and offers in some respects improved standards of design as sought by Designing Streets. It is also a clear example of promoting the efficient use of available land in line with Scottish Planning Policy (SPP).

9. **Will the granting of consent for the proposed development set an undesirable precedent for further development which would affect the environment, privacy or amenity?**

No. It is respectfully suggested by the Appellant that should future proposals arise elsewhere that exhibit similar plot/garden sizes and bespoke house type design, presented in a manner that is as sympathetic to amenity as the proposed development, then potentially a desirable precedent would be the outcome in many respects.

### **Conclusion**

Members will be aware that if a proposed development accords with the Council's Development Plan it must under statute be consented. In that regard Section 25 of the Town and Country Planning (Scotland) Act 1997 states that a Planning Authority's decision on a planning application must be made in accordance with the Development Plan – unless material considerations indicate otherwise.

The Appellant has demonstrated within this Statement of Case that the proposed dwelling is acceptable in planning terms and accords with the Council's planning policy. Therefore, planning consent must be granted.

In this regard, the application site lies within the settlement boundary area where housing is the most appropriate and acceptable land use. The scale, size, massing, plot/garden size and external appearance of the proposal is such that it will have no adverse impact on the setting of the surrounding area and will preserve the character of the area.





There will be no negative impact on streetscape. Built heritage will not be adversely affected and there will be no significant negative impact on the natural environment. There are no ecological constraints (flora or fauna) and no flood risk derives from the proposal.

The density of development is similar to nearby properties/developments. There is no overlooking, over shadowing or other impact on amenity for any property that merits refusal. Indeed, there have been approvals by the Planning Authority of proposals exhibiting similar characteristics.

Accordingly, the proposal accords with Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (Adopted) and the associated Supplementary Guidance and accords with Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.

The Appellant respectfully request that Members grant planning permission subject to appropriate conditions. In this regard the Appellant will accept removal of the permitted development rights permitting the formation of raised decking within the rear garden or any other form of development and will agree to the implementation of an approved landscaping scheme if Members consider either of these necessary.

**Hendersons Surveyors, East Netherton, Milnathort, Kinross KY13 0SB**





# Appendix 6

3h

## Further Representations

### Further Representation From

- ◆ Statement of Observations from Planning Officer on Applicant's Notice of Review
- ◆ Kirsty Munro
- ◆ Alex Galbraith





**Planning Application No. P/19/0873**

**Subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and the retention and improvement of the existing vehicular access**

**Tigh Na Bruaich, Braehead Road, Thorntonhall, G74 5AQ**

**1.0 Planning Background**

- 1.1 A planning application was submitted by Mr T Swanson to South Lanarkshire Council on 03 June 2019 seeking permission for the subdivision of garden ground and the erection of a one and a half storey detached dwellinghouse and the retention and improvement of the existing vehicular access at Tigh Na Bruaich, Braehead Road, Thorntonhall. Following amended application form and drawings, the application was validated on 21 June 2019. After due consideration of the application in terms of the Local Development Plan and all other material planning considerations, the planning application was refused by the Council under delegated powers on 08 November 2019. The report of handling dated 04 November 2019 explains the decision and the reasons for refusal are listed in the decision notice. These documents are available elsewhere in the papers. The Council has also undertaken a shadow test (Council Production No.1).
- 1.2 It should also be noted that the property has been the subject of a number of applications for residential development. An application in 2013 (EK/13/0362) for subdivision of the garden ground and construction of two detached dwellings was refused and a subsequent appeal to the Scottish Government (PPA-380-2046) was dismissed. In 2015 an application (EK/15/0203) for a detached dwelling to the north of the existing dwelling was granted consent and is under construction at present. In 2016 planning consent (EK/16/0273) was granted for the formation of a new access to the existing house. Also in 2016 an application (EK/16/0289) for the erection of a detached dwelling on the current application site was refused.

**2.0 Assessment against the development plan and other relevant policies**

- 2.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended requires that an application for planning permission is determined in accordance with the development plan unless material considerations indicate otherwise.
- 2.2 In terms of the South Lanarkshire Local Development Plan (adopted 2015), Policies 4 – Development Management, 6 – General urban area/settlements, DM1 - Design and, DM3 – Sub Division of Garden Ground are applicable. Policies 4 and DM1 resist any development that would be detrimental to residential amenity and that all planning applications should take account of the local context and built form. All development should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity. Notwithstanding the height of the dwelling being of one and a half storey scale, and the position of the dwelling in the plot, due to the elevated nature of the site in relation to the dwellings located to the north on Ardbeg Lane, it is considered that the proposal would have an adverse impact in amenity terms on these adjacent dwellings. As such, the proposal does not fully comply with these policies.
- 2.3 Policy DM3 states that there will be a presumption against development within the curtilage of an existing dwelling unless certain criteria can be met. The proposal has been assessed in detail against the criteria as follows:

- (a) **That the proposed house is of a scale, massing, design and material sympathetic to the character and pattern of the area and does not result in a development which appears cramped, visually obtrusive or of an appearance which is out of keeping with the established character that is harmful to the amenity of the area;**

While it is accepted that dwellings of this footprint and scale do exist within the surrounding area, it is considered that in this instance this house type would still be dominant in relation to the adjacent dwellings in Ardbeg Lane given the contours of the site. It is considered that a dwelling of this footprint would appear incongruous in relation to the existing Tigh-Na-Bruaich, which is a much larger unit set further back from Braehead Road with generous garden ground. In addition the resulting plot would have a limited area of useable level garden ground and would be an irregular shape.

- (b) The proposed house plot and that remaining to the existing house is comparable with those nearby in terms of size shape and amenity, the proposal accords with the established pattern of development in the surrounding area;**

The new house plot resulting from the subdivision of the garden ground of Tigh-na-Bruaich is smaller than that of the existing house, and is irregular in shape. There are substantial levels differences in relation to surrounding, established development, and it is considered that the plot would not be comparable with the existing dwelling in terms of amenity and plot positioning.

- (c) The proposed house should have a proper road frontage of comparable size and form with those of surrounding curtilages;**

In terms of providing a proper road frontage, the existing vehicular access would be altered to serve the proposed dwelling. An entirely new access has been formed from Braehead Road, to serve the existing dwelling. It is accepted that access for the proposed dwelling could be achieved provided sightlines can be show to be achievable through the submission of additional engineering drawings.

- (d) That the proposed vehicular access should be of an adequate standard and should not have any adverse implications for traffic safety or adversely affect the amenity of adjacent properties;**

The existing vehicular access would be altered to serve the proposed dwelling. An entirely new access has been formed from Braehead Road, to serve the existing dwelling. It is accepted that access for the proposed dwelling could be achieved provided sightlines can be show to be achievable through the submission of additional engineering drawings.

- (e) The garden space of the proposed house and remaining for the existing house should be sufficient of the recreational, amenity and drying needs of the occupants;**

The dwelling has been positioned in such a way on the plot to attempt to achieve useable garden ground for the new dwelling. It is evident from a site inspection however, that the land falls steeply to the north rendering several

metres unsuitable for recreational use. It is of concern that in order to achieve level useable garden ground substantial regrading, retaining features and or decked areas may be introduced which would exacerbate privacy issues with neighbouring properties.

**(f) That the new development will not cause an unacceptable reduction in privacy to surrounding houses as well as the new house itself;**

Due to the scale and proximity of the proposed dwelling and the fact that it would sit at a higher level than the existing adjacent houses located to the north, it is considered that there would be an unacceptable impact on residential amenity and a potential for a privacy issue to arise in some dwellings to the rear as a result of the use of any patio or decked area within the new dwelling's garden.

**(g) That the new development will not overshadow adjacent properties to a degree which will result in loss of amenity or itself be significantly adversely affected by overshadowing;**

The Council has undertaken a shadow study (Council Production No.1) to ascertain if there is an overshadowing issue with the dwellings located to the north. The sun path diagrams show the shadow cast in the afternoon in spring, autumn and winter months. When the height difference between the proposed dwelling and the existing properties in Ardbeg Lane is taken into account, an overshadowing issue would exist, during the spring, autumn and winter months.

**(h) That all existing features such as trees, hedges etc that contribute to the character of the area will be retained;**

In order to meet the Council's Roads & Transportation Service requirements, a footpath along the Braehead Road frontage of the application site would be required to be constructed. This would entail the removal of the mature hawthorn hedgerow and established ornamental shrubs together with regrading, thus resulting in a detrimental effect on the rural character of this part of Braehead Road.

- (i) **That adequate parking can be provided for both the proposed and the existing house, and must not be harmful to the character of the established character and amenity of the area;**

In respect of the proposed and the existing dwelling adequate on-curtilage parking is achievable.

- (j) **That the new development must not jeopardise any further desirable development in the area;**

It is not considered that the proposal would jeopardise further development in this area.

- (k) **The proposal should take account of any supplementary guidance prepared by the Council, where relevant;**

The proposal has been assessed above against the relevant Supplementary Guidance.

2.4 The above assessment against Policy DM3, demonstrates that the proposal is contrary to criteria (a), (b), (e), (f), and (g) as detailed above.

2.5 On 29<sup>th</sup> May 2018 the Planning Committee approved the proposed South Lanarkshire Local Development Plan 2 (Volumes 1 and 2) and Supporting Planning Guidance on Renewable Energy. The new plan builds on the policies and proposals contained in the currently adopted South Lanarkshire Local Development Plan. For the purposes of determining planning applications the proposed South Lanarkshire Local Development Plan 2 is now a material consideration. In this instance Policies 3, 5, DM1 and DM3 are relevant and the proposal has been assessed against these policies and does not fully comply with these policies.

2.6 Residential proposals for this site have been subject of detailed discussion between that Council's Planning Service and the applicant and his agent through previous applications which the applicant withdrew or the Council refused, most recently in December 2016 (reference EK/16/0289). The applicant appealed the decision in respect of the refusal of application EK/13/0362, in 2014 which was dismissed by the Reporter. While it was concluded by the Reporter that the proposal complied in general terms with the development plan, it was considered that the adverse

impacts on privacy enjoyed by the adjacent properties on Ardbeg Lane were significant and unacceptable. The refusal of the similar application in 2016 (reference EK/16/0289) was not appealed by the applicant who has chosen to submit this current application. The current proposal is similar to the application refused in 2016. It is of a similar size and scale although it has been reoriented and relocated on the site. The overall height of the proposed dwelling has increased. It remains the view of the Planning Service that the development is unacceptable in amenity terms.

- 2.7 In conclusion, careful consideration of this proposal has been undertaken and although the site is located within an area designated for residential land use and the house is one and a half storey design, given the difference in ground levels, it is considered that this development would be detrimental to the amenity of the surrounding area due to the mass and scale of the proposed dwelling and its over dominance with the adjacent existing dwellings to the north. A shadow test which the Council undertook demonstrated that an overshadowing problem would still occur in the afternoon in spring, autumn and winter months. Furthermore, in order to achieve safe pedestrian linkage with the rest of Thorntonhall, a footpath along the site frontage would require to be constructed which would result in the removal of a mature hawthorn hedge and other shrubs/vegetation, together with regrading which is considered undesirable in amenity terms. In this regard, the proposal is not deemed to be in accordance with the Policies 4, 6, DM1 and DM3 of the South Lanarkshire Local Development Plan (adopted) and also Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.

### **3.0 Observations on applicants Notice of Review**

- 3.1 Through an agent, the applicants have submitted a statement to support their review. This was submitted partly to respond to the matters raised in the Officer Report. The grounds are summarised below:

- (a) **The agent's grounds for appeal numbers 1 to 5 relate to the proposed access, turning facilities and parking and discusses this in terms of loss of privacy caused by the driveway.**

**Response:** As set out in the report of handling and set out above Roads and Transportation Services requested further information and plans detailing the design of the proposed access, visibility splays, a new footway to the east and 3 no. parking spaces at the time of assessment of the application which was not provided. The existing vehicular access would be altered to serve the proposed dwelling. An entirely new access has been formed from Braehead Road, to serve the existing dwelling. It is accepted that access for the proposed dwelling could be achieved provided sightlines can be shown to be achievable through the submission of additional engineering drawings. The reasons for refusal of the application on grounds of loss of privacy relate to the location and impact of the dwellinghouse and garden ground rather than the proposed access road.

- (b) There would be no loss of privacy as the window to window distance has been met. The houses in Ardbeg lane were granted consent and their position in relation to the existing Tigh na Bruaich dwelling was considered acceptable, as was the new property to the west. Another development example is also referenced in this respect. The reasons for refusal focused on loss of privacy and potential future loss of privacy which could be controlled through planning condition.**

**Response:** The concerns in respect of loss of amenity relate to the significant levels differences and the position of the proposed dwelling. The existing house is located further away from these properties and in a much larger plot with substantial garden ground. The dwelling granted consent (EK/15/0203) to the west of the existing dwelling is positioned close to Braehead Road and is orientated such that the main area of rear garden and the rear facing windows are further away from the houses in Ardbeg Lane. Loss of privacy was one of a number of reasons for refusal including potential overshadowing and the proposed dwelling being considered out of character with the surrounding area. The potential loss of privacy could not in this case be mitigated through planning condition due to the levels differences and the separation distances of the proposed dwelling and those in Ardbeg Lane. The Council's concerns over the proposed development of the site have been made clear through detailed discussion between that Council's Planning Service and the applicant and his agent through previous

applications which the applicant withdrew or the Council refused, most recently in December 2016 (reference EK/16/0289).

- (c) **The agent suggests that there will be no loss of amenity due to the proposed dwelling. The dwelling will not result in dominance as it sits in a large plot and is sufficiently set back. The shadow test carried out by the Council was not published at the time of the decision.**

**Response:** Following site inspection and carryout of a shadow test (Council Production No.1) it was considered that the sun path diagrams show the shadow cast in the afternoon in spring, autumn and winter months. When the height difference between the proposed dwelling and the existing properties in Ardbeg Lane is taken into account, an overshadowing issue would exist, during the spring, autumn and winter months. Any assessment of overshadowing is normally carried out for the Council's own consideration, however the shadow test has been published.

- (d) **The form and location of the proposed development will not have an adverse effect on the character, form and appearance of the adjoining area/settlement. The density of development proposed is not significantly higher than that found in many parts of Thortonhall. The design of the proposed dwelling and pattern of development created by it is entirely in keeping with the overall character and environmental quality and the scale, height and massing of the proposal integrates/blends well with the varied nature of dwellings in the village. the proposed dwelling mimics to a degree the already consented dwelling to the west of Tigh-na-Bruaich. The loss of any remaining hedge or shrubs will not adversely affect the local environment.**

**Response:** While it is accepted that dwellings of this footprint and scale do exist within the surrounding area, it is considered that in this instance this house type would still be dominant in relation to the adjacent dwellings in Ardbeg Lane given the contours of the site. It is considered that a dwelling of this footprint would appear incongruous in relation to the existing Tigh-Na-Bruaich, which is a much larger unit set further back from Braehead Road with generous garden ground. In addition the resulting plot would have a limited area of useable level garden ground and would be an irregular shape.



The new house plot resulting from the subdivision of the garden ground of Tigh-na-Bruaich is smaller than that of the existing house, and is irregular in shape. There are substantial levels differences in relation to surrounding, established development, and it is considered that the plot would not be comparable with the existing dwelling in terms of amenity and plot positioning. The removal of the mature hawthorn hedgerow and established ornamental shrubs together with regrading, thus resulting in a detrimental effect on the rural character of this part of Braehead Road.

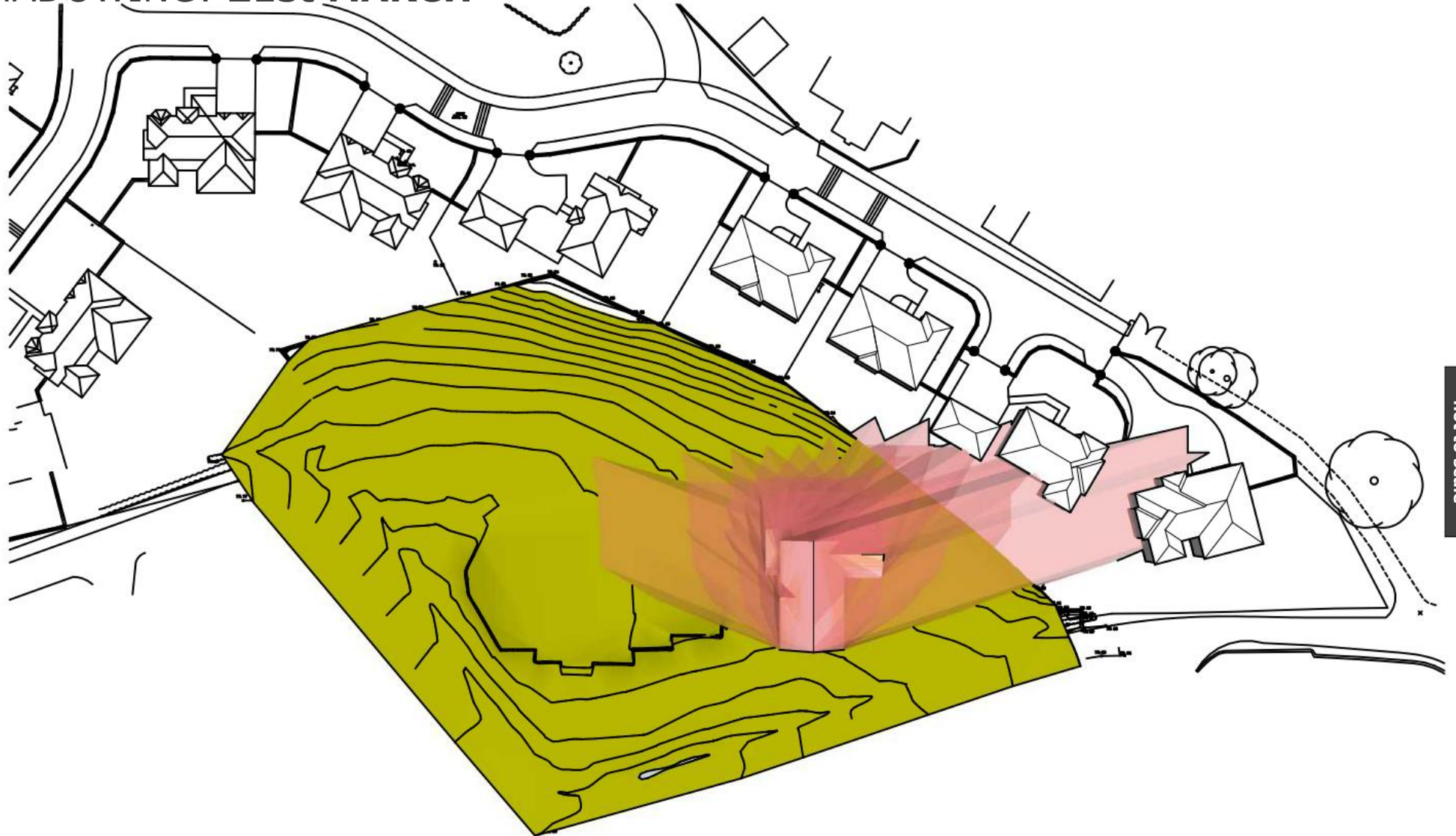
- (e) **The granting of consent for the proposed development will not set an undesirable precedent for further development which would affect the environment, privacy or amenity, rather it would set a desirable precedent.**

**Response:** It is considered that the proposed development would set an undesirable precedent for developments that would not make a positive contribution to the character and appearance of the environment, would not relate satisfactorily to adjacent surrounding development and would have a significant adverse impact on the amenity of the adjacent dwellings.

## **4.0 Conclusions**

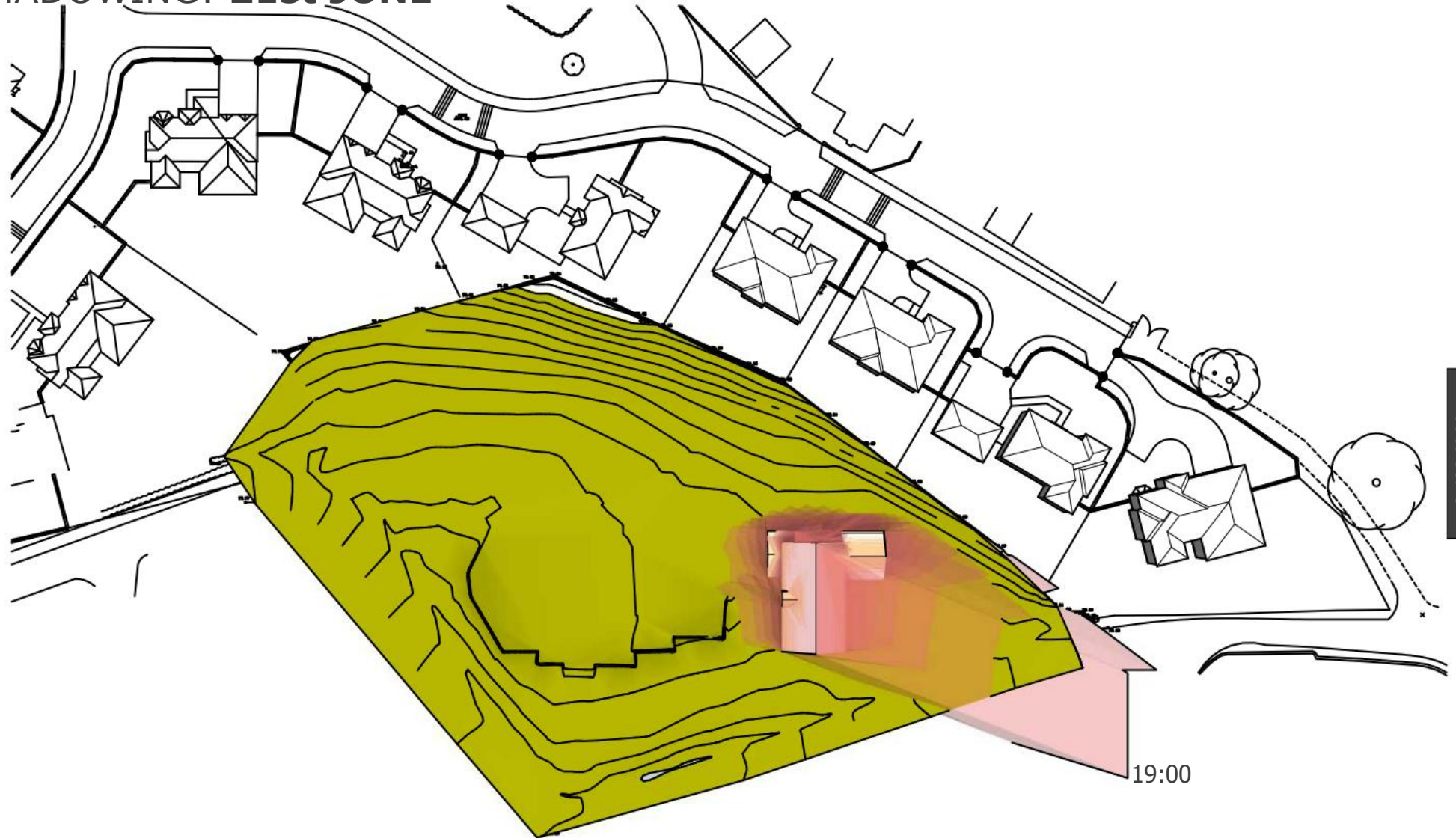
- 4.1 In summary, the proposed development does not accord with the provisions of the adopted Local Development Plan and the relevant associated supplementary guidance, or with the provisions of the proposed Local Development Plan 2 relating to sub division of garden ground. In addition, there are no material considerations which outweigh the provisions of the development plan. It is therefore respectfully requested that the Review Body refuse planning permission for the proposed development.

## SHADOWING: 21st MARCH



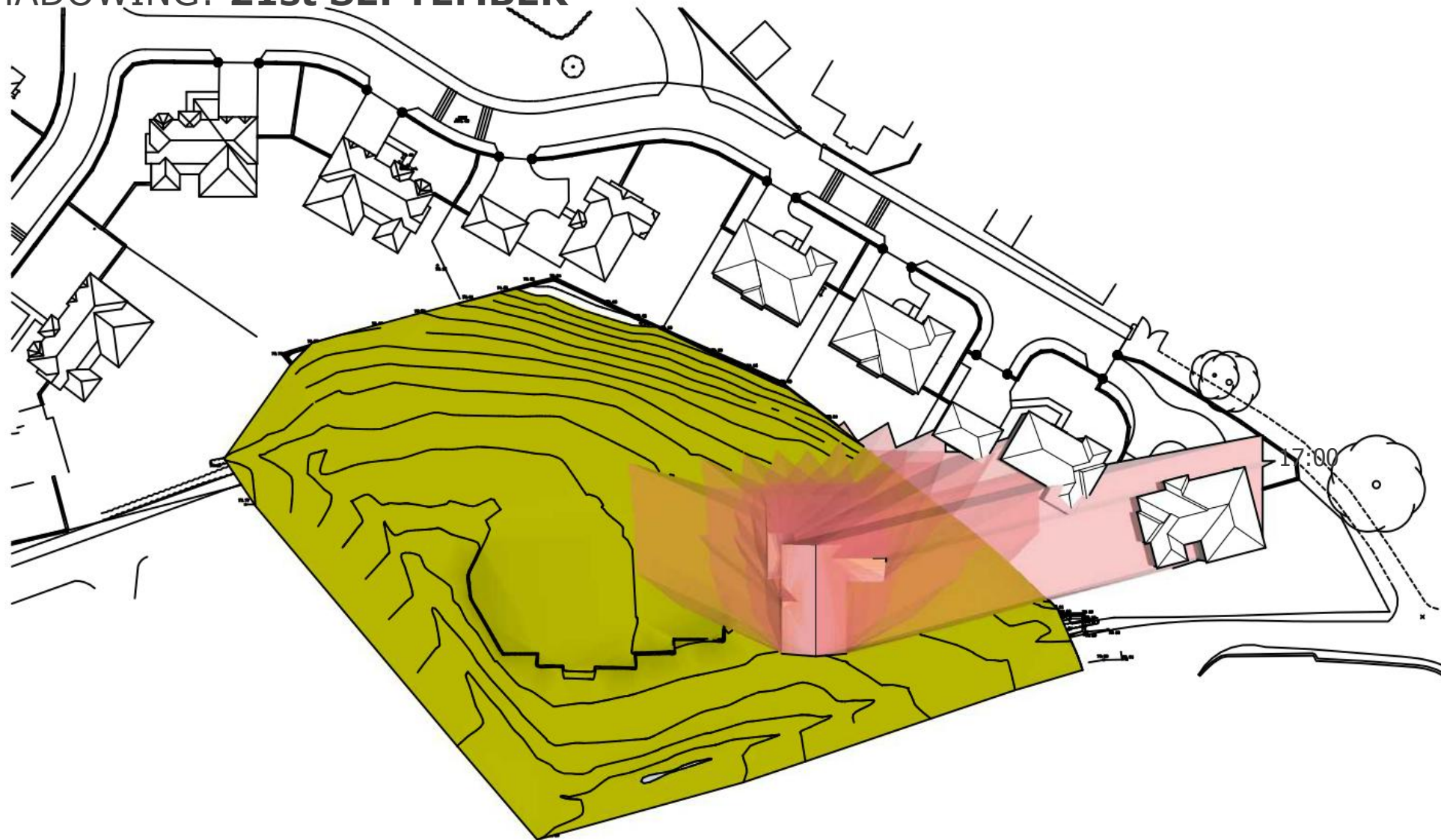
not to scale

## SHADOWING: 21st JUNE





## SHADOWING: 21st SEPTEMBER



not to scale

11 Ardbeg Lane  
Thorntonhall  
Glasgow  
G74 5DA

3h

Dear Pauline MacRae,

thank you for your correspondence for reference number PLRB/NOR/EK/20/001 for planning application number P/19/0873 of which I am strongly opposed to. The application was refused on the 8th of November 2019 and the situation still stands that I will lose privacy and be overlooked, i will be overshadowed and will lose general amenity.

I will hope that the only appropriate decision would be to refuse this for the final time.

Yours faithfully

Kirsty Munro

SOUTH LANARKSHIRE COUNCIL ADMINISTRATION AND LEGAL SERVICES	
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COPY/COPIES FOR INFORMATION TO	



3h

**9 ARDBEG LANE  
THORNTONHALL  
GLASGOW  
G74 5DA**

Pauline MacRae  
Administration Officer  
Floor 2  
South Lanarkshire Council  
Almada Street  
Hamilton  
ML3 0AA

28 February 2020

Dear Madam

**Planning Local Review Body  
Planning Application No: P/19/0873**

I refer to your letter of 19 February 2020 in the above connection.

The proposed development as per the above planning application has been assessed on three occasions by competent professional town planners, twice by South Lanarkshire Planning Department and once by The Scottish Government's DPEA, and each time consent has been refused on largely the same grounds. There has been no change in circumstances and I respectfully request the refusal of consent should be upheld.

Yours faithfully

Alex Galbraith

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# Appendix 7

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**Applicant's Comments on Further Representations  
Submitted by Interested Parties in the Course of the  
Notice of Review Consultation Process**



26.03.2020

Dear Sir/Madam

**Local Review Body – Comments Made on Behalf of Applicant Regarding Representations**

**Case: Planning Reference, P/19/0873 - Subdivision of garden ground and the erection of a one and a half storey detached dwelling house and the retention and improvement of the existing vehicular access at the residential Property known as Tigh Na Bruaich, Braehead Road, Thorntonhall, G74 5AQ.**

Once again, we are attempting to keep this analysis simple and (in part) looking to other examples recently granted planning permission for some guidance on what is acceptable in planning terms.

It is not our desire to be repetitious. However, some important points must be made.

The Planning Authority principally appear to have concerns regarding the level differences between the proposed plot and the houses in Ardbeg Lane.

They have submitted their shadow test diagram which the Planning Authority say proves that there will be overshadowing of the houses in Ardbeg Lane.

They believe that there will be privacy implications for the residents in Ardbeg Lane.

The Planning Authority believe that the proposed house will be overly dominant in relation to the houses in Ardbeg Lane.

They also believe that the loss of a roadside hedge is of such significance that it would be undesirable in amenity terms and (in part) justifies refusal of the application.

**Comments:**

Appendix 1 (attached) shows the Council's shadow test diagram and then on the next page is shown the applicant's Proposed Site Plan. The applicant has not seen the shadow test diagram before and quite simply has not been afforded the time by the Planning Authority to have their own test undertaken. There is no technical data or software package information provided to support the shadow test results which is unacceptable and the legitimacy of this test and the diagram attached as a material consideration is very much in doubt. It should be noted that it was requested that the applicant be furnished with a copy of this shadow test including all relevant technical background information, in order that its veracity can be considered by the applicant's agents and that the applicant is given the opportunity to make comment prior to the Review.

What is apparent from the Proposed Site Plan attached, is that given the location and scale of the other two dwellings to the west including the original house (Tigh Na Bruaich), they

should also have been shadow tested for comparison and the results displayed. It appears highly likely that some overshadowing would result from those properties which has been deemed acceptable already by the Planning Authority.

The next photograph within Appendix 1 shows the recently laid foundations and the garden level of the new house under construction to the West. There is a significant level difference between that plot and the houses in Ardbeg Lane. Only the rooftops of adjacent houses in Ardbeg Lane are visible in the photograph, highlighting the sharp and significant drop in levels from that plot to the rear gardens of those properties. That has been deemed acceptable by the Planning Authority. It is arguably more notable than the level difference exhibited by the proposed plot to the east, which the Planning Authority considers unacceptable. Indeed, when on site the proposed plot does not feel to have quite the same overbearing potential as the house being constructed to the west. In that regard, if it is possible, a site meeting is advisable to appreciate this fully.

Please note that this level difference has relevance to shadow tests properly undertaken. A great many Planning Authorities do not properly consider the significant impact that retaining walls can have on daylight when programming software related to overshadowing tests. In this case it is obvious that properties in Ardbeg Lane will already be overshadowed by the very high (almost roof height) retaining wall which runs along their rear garden boundaries.

The last photograph in Appendix 1 shows the existing house (Tigh Na Bruaich) and part of the proposed house plot to the east. It also shows part of the hedgerow mentioned by the Planning Authority. Regarding the loss of the hedgerow along the roadside, that hedge can in no way be characterised as locally significant in amenity terms. The loss of any remaining hedge or shrubs will not adversely affect the local environment such that the possibility of their removal should form any part of a reason for refusal of the application. At the end of the day the Planning Authority are aware that the site lies within the settlement boundary. All residents within Thorntonhall and any other settlement in South Lanarkshire can cut, remove, plant etc hedges and shrubs within their gardens as they see fit (bird nesting seasons allowing).

#### Conclusion:

The applicant has demonstrated that the proposed dwelling is acceptable in planning terms and accords with the Council's planning policy. Therefore, planning consent must be granted.

In this regard, the application site lies within the settlement boundary area where housing is the most appropriate and acceptable land use. The scale, size, massing, plot/garden size and external appearance of the proposal is such that it will have no adverse impact on the setting of the surrounding area and will preserve the character of the area.

There will be no negative impact on streetscape. Built heritage will not be adversely affected and there will be no significant negative impact on the natural environment. There are no ecological constraints (flora or fauna) and no flood risk derives from the proposal.



The density of development is similar to nearby properties/developments. There is no overlooking, over shadowing or other impact on amenity for any property that merits refusal. Indeed, there have been approvals by the Planning Authority of proposals exhibiting similar characteristics.

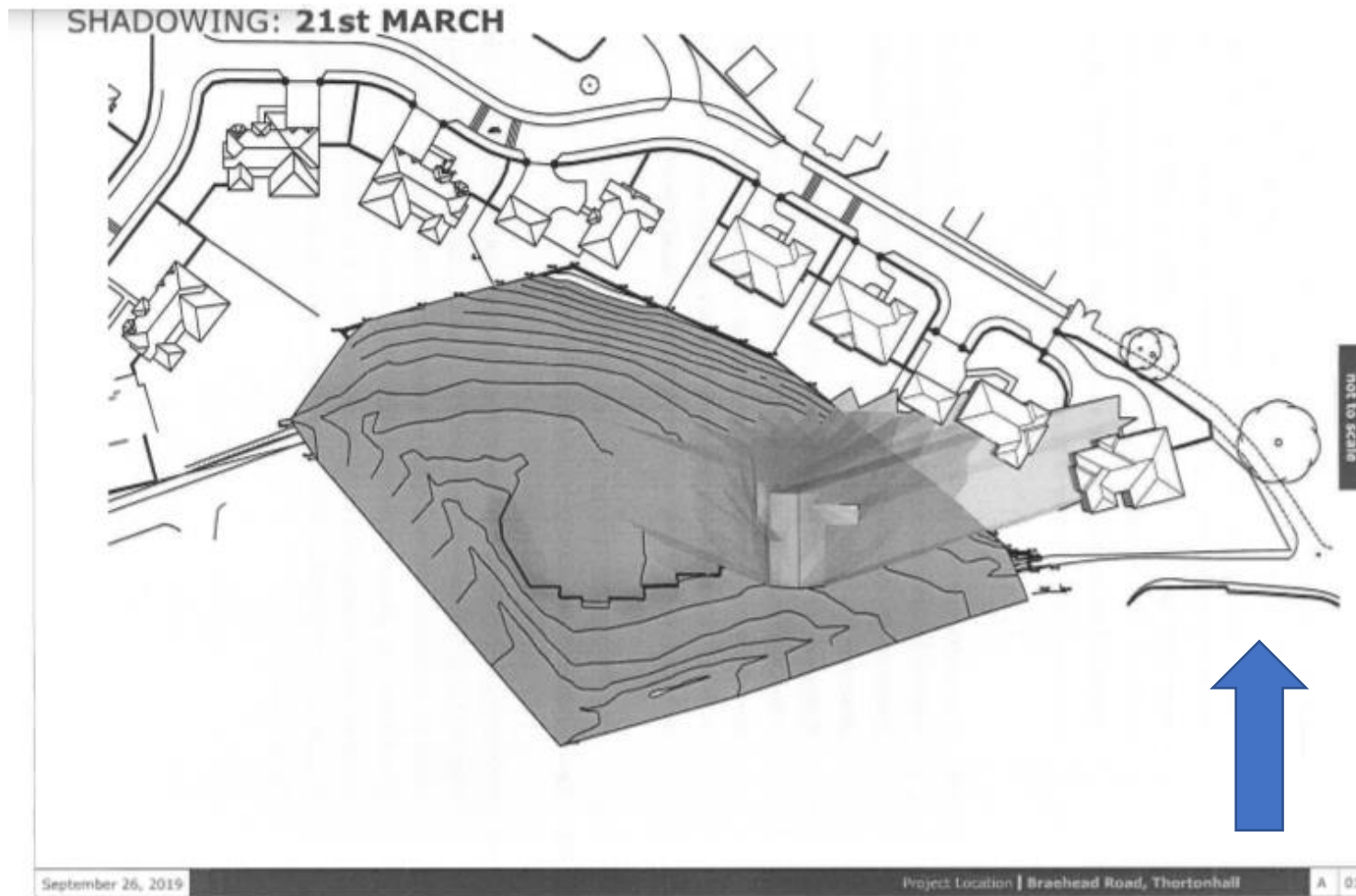
Accordingly, the proposal accords with Policies 4, DM1 and DM3 of the South Lanarkshire Local Development Plan (Adopted) and the associated Supplementary Guidance and accords with Policies 5, DM1 and DM3 of the proposed South Lanarkshire Local Development Plan 2.

The applicant respectfully requests that Members grant planning permission subject to appropriate conditions. In this regard the applicant will accept removal of the permitted development rights permitting the formation of raised decking within the rear garden or any other form of development and will agree to the implementation of an approved landscaping scheme if Members consider either of these necessary.



Appendix 1

Planning Authority's Shadow Test of Proposed House (NB: No Plotting/Testing Undertaken of Existing 2 Storey House or The Recently Consented House, both to the West)







New House to the West Currently Under Construction (Only Foundations Shown in Photograph)

Significant Level Difference Apparent - Only the Rooftops of Adjacent Houses in Ardbeg Lane are Visible Indicating the Sharp and Significant Drop in Levels from this Western Plot to the Rear of Those Properties in Ardbeg Lane.



Existing 2 Storey Dwelling on Site, Hedgerow (part of) and Eastern Plot (part of) where Proposed House Would be Located

