



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:	DTA Chartered Architects Limited		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	DTA Chartered	Building Name:	
Last Name: *	Architects	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? \*

☒ 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

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

Northing	<input type="text"/>	Easting	<input type="text"/>
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## Description of Proposal

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

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.

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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.

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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.

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- 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

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**

