

# Appendix 7

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



Mr and Mrs William Higgins  
Forita  
53 Waterloo Road  
LANARK  
ML11 7QW

23 September 2010

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

Dear Ms MacRae

**Notice of Review - Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008**  
**Planning Application No: CL/10/0189**  
**Proposal: Subdivision of Garden Ground and Erection of House (Planning Permission in Principle)**  
**Location: 53 / 55 Waterloo Road, Lanark**

I refer to the above and your letter dated 13 September 2010 providing the Statement of Observations and Representation from interested parties.

Please find attached our response to these representations.

May I take this opportunity to thank you in advance for your assistance with this and to the Review Panel for taking the time to consider our appeal.

I would be obliged if you could advise me when the PLRB are scheduled to meet and if it is possible to attend the meeting.

Yours sincerely

**Mr and Mrs Wm Higgins**

Encl

## RESPONSE TO STATEMENT OF OBSERVATIONS

- 1.2 Documents relating to Planning Application CL/09/0065 have been included for comparison. It should be noted that this review is for Planning Application CL/10/0189 which is a new application offering a different site entrance and plot size, thus comparison to the initial application in 2009 is irrelevant as the development site and proposals for the site have been changed and are no longer as proposed in 2009. It is unclear why block plans and information relating to the 2009 have been included by the Planning Officer with the Review documentation for an application that is no longer relevant to the site.
- 1.3 The Planning Officer registered the application on 4 May 2010, as noted in Section 1.1 of the Statement of Observation, yet at no point during the consideration of the application did the Planning Officer advise the applicants that the submitted plans were inaccurate. This action removed the opportunity for the applicants to return the plans to their architect for adjustment.

Further to receipt of the Statement of Observations and the applicants discovering that the plans were inaccurate they contacted their architect who accepted that this was human error on his part. It should be noted that at no time have the applicants tried to show the site as being larger than it actually is. The error resulted in the garden areas to the front of the site being set back by 2 metres which in turn reduced the rear amenity space left to the houses at 53 and 55 Waterloo Road. It was not in the applicants interest to show this and this could have been rectified if the Planning Officer had advised the applicants of the inaccurate plans prior to making a determination of the application.

An invalid letter dated 16 April 2010 (CL/10/X0203) was received by the applicants and which requested *"an existing block plan at 1:200 scale. Amend the proposed block plan to clearly show the vehicular access for the two existing dwellinghouses and the proposed dwellinghouse as well as the proposed parking arrangements for the existing dwellings. In addition you need to show the private garden area for 53 Waterloo Road on the proposed block plan. The extent of the proposed block plan should be amended to show the building line of the dwellinghouses at 1 Scarletmuir and 26 Wheatlandside"* why did this letter not also request that the applicants amend the inaccuracies noted at 1.3 of the Statement of Observations.

The above amendments to the block plan were made and the application resubmitted and subsequently registered by the Planning Officer who must have been aware at that stage that further points with regard to inaccuracies in the plans, walls and outbuildings had not been noted, yet failed to bring this to the attention of the applicants and instead registered the application as suitable for processing. Does this then mean that the application was determined using inaccurate information and has this afforded the application a safe outcome?

The applicants have enclosed a revised copy of the plans after having their architect revisit the site and physically measure the site to detail how it would have been submitted if the applicants had been afforded the opportunity of amending the errors. This would have resulted in the garden areas for the properties at 53 and 55 Waterloo Road having sufficient garden ground following subdivision, clearly this would have been favourable to the outcome of the application. It is hoped that the Review Panel will accept the new plans in replacement of the inaccurate plans used in determining the application.

1.4 As 1.3 above the architect has advised that this was human error. The applicants are offended that there is a suggestion that they have attempted to submit plans showing the plot as larger than it actually is, in fact the inaccurate plans did not benefit either party. The applicants have acknowledged the error with the plans, albeit the notification came too late to make any adjustments prior to the application being processed, and would like to assure the Review Panel that they have in no way attempted to misguide or provide false information about the site. The applicants remain concerned that the Planning Officer accepted the inaccurate plans and used these to determine the application and that at no time was any contact made with the applicants to advise of the inaccuracies or to request amendments.

2.2 This response contradicts the Planning Officer statement in 3.1 (b) in the Statement of Observations where it is stated that *"It is accepted that in this area of Lanark there is a mixture of styles of housing ranging from the more traditional cottages, villas and 1950's bungalows to 1970's and 1980's dwellings, all of which have different storey heights, different sized plots and garden provision."* If the Planning Officer agrees that there is mixed housing in the surrounding area why would this application be detrimental to amenity.

The Planning Officer further states that she seeks a well designed proposal which would integrate successfully with the surrounding area. This is an outline application which has been submitted with no house design, the applicants would be guided on any design considerations that the Planning Officer wished to include as a condition of the consent if necessary. Thus it is unclear how the Planning Officer can reasonably make comment on the house design.

2.3 The Planning Officer quotes Policy DM5 Criteria (i) that *"the proposed house must be of a scale, massing, design and materials sympathetic to the character and pattern of development in the area and must not result in a development that appears cramped, visually obtrusive or be of an appearance which is out of keeping with the established character."* As detailed above the Planning Officer agrees that this area is a mixed housing area it is obvious that assumptions have again been made about the house design of which no plans have been submitted with this application.

With regard to the development being cramped and visually obtrusive it could be suggested that the Planning Officer has, yet again, failed to treat this application as an application in principle and clearly has a picture of a house that has not yet been designed. If the application were to be approved in principle the applicants would be required by any conditions of that consent in designing the dwellinghouse. It should be noted that the proposed plot size, entrance, parking and garden ground meets the requirements of planning and should have been judged on this basis not on the assumptions and inaccurate visions of the Planning Officer.

2.4 The current application required to make use of the side garden area of 53 Waterloo Road following the refusal of a previous application (CL/09/0065) which noted that the plot size was irregular in shape and narrow in depth, however did meet the necessary parking and private ground requirements for both the proposed dwellinghouse and the donor properties at 53 and 55 Waterloo Road. Thus the new application (CL/10/0189) showed the site in a more regular shape by utilising a larger portion of the rear garden ground from 53 Waterloo Road and designating the side area of 53 Waterloo Road for garden area.

The area of land to the side of the dwellinghouse is sufficient in size both in depth and length to provide garden space and is not unusual in the area where many properties, including 1 Scarletmuir, utilise space to the side of the dwelling as garden ground (PRODUCTON 1 & 2). The Planning Officer's response to the proposed garden area confirms that the size of the remaining garden area for 53 Waterloo Road meets the Council's Residential Development Guide in terms of size but the Planning Officer considers that this garden formation is out of character for 53 Waterloo Road and other houses in the general area. The Planning Officer's consideration is inaccurate as in 1998 when the applicants first purchased the house the side of the property was utilised as garden space, it contained not only the two existing outbuildings but also an additional outbuilding, hedges, planting and a wooden fence which closed off the property from the front leaving an area for parking at the entrance. As part of the renovations to the property, including the installation of damp proofing and the essential lowering of ground levels, the side garden area was cleared to allow this work to be carried out and has subsequently been utilised for parking and access.

The new garden area at 53 Waterloo Road will comprise of a side garden measuring approximately 7.5m in depth by 23m in length and an additional rear garden measuring 2m in depth by 15m in length. It should also be noted that the existing rear entrance (back door) to 53 Waterloo Road is situated at the side of the dwellinghouse which would accommodate a side garden formation.

A number of gardens in this area do not meet the criteria referred to by the Planning Officer. Examples include 26 Wheatlandside; 1 Scarletmuir; 19 Hardacre; 1 Waterloo Drive and 45 Waterloo Road (neighbouring property to 53) which has a further reduced garden space following the erection of an extension and detached garage, currently under construction.

This section also refers to a traditional wall running parallel with Wheatlandside, this is a pre-fabricated concrete panel wall circa 1960's, which is in need of repair (PRODUCTION 3). The use of the word traditional in the Statement indicates that the removal of this wall would be detrimental to the character of the area. This wall would not need to be removed to accommodate parking as suggested by the Planning Officer the proposed position of entrance to 53 Waterloo Road is as existing. However it would be intended as part of the new layout to replace this 1960's pre-fabricated structure with a more aesthetically pleasing boundary treatment in line with any planning requirements. It should be noted that the application at 39 Waterloo Road (CL/07/0221) indicates the removal of a traditional stone wall at the front of the site to accommodate a new entrance and front garden parking in both the existing house and proposed house. This would appear to be against the Planning Officers vision of the established character for this area and although it would appear to be an issue at 53 Waterloo Road it was not highlighted as an issue for the application at 39 Waterloo Road.

With regard to parking at the front of the building this is a common occurrence for most properties in the surrounding area, including the host property at 55 Waterloo Road and neighbouring properties at 45 and 57 Waterloo Road (PRODUCTION 4, 5 & 6).

The Planning Officer notes concern "that the plans are inaccurate and there may not be adequate space within this area to allow cars to be parked." Again a reference to inaccurate plans which caused difficulty for the Planning Officer when making judgements on the application, yet no communication was made with the applicants to rectify the plans or to provide information. It should be noted that parking was delineated on the submitted plans and the accurate plan submitted with this Review also shows proposed parking arrangements. The plans and a site measure would confirm that there is adequate parking on site as indicated on the plans or alternatively front entrance parking could be utilised and would mirror the current parking arrangements for the host dwelling at 55 Waterloo Road.

- 2.5 In response to the Planning Officer's consideration that a dwellinghouse could not be designed and laid out on the plot without causing an unacceptable reduction in privacy, the design of the house has not been submitted with the application or been agreed, an architect would be able to take into consideration issues of privacy and again conditions of consent could be applied. The erection of the houses at Scarletmuir and in particular, the house in the rear garden ground of 59 Waterloo Road did not cause sufficient privacy issues to warrant refusal, the houses at 1 and 3 Scarletmuir and 53 and 55 Waterloo Road overlook each other at the moment without causing privacy issues.

The Planning Officer further considers that the provision of approximately 2m x 15m section of garden to the rear of 53 Waterloo Road to be inadequate, the applicants disagree as this area could comfortably be used as a patio area for garden furniture and barbecue and when taken into consideration with the additional substantial garden area at the side of the house of approximately 150sqm no loss of amenity would be suffered by 53 Waterloo Road. The Planning Officer notes that the remaining rear garden for 55 Waterloo Road measure 64sqm and not the required 70sqm, the actual rear garden for 55 Waterloo Road will be 85sqm as indicated on the amended plans submitted with the review documentation. The 64sqm measurement was taken from the inaccurate plans submitted with the application, unsure why the Planning Officer continued to assess the application when she was aware that the information being used to determine the application was inaccurate. Again this highlights that the application was judged and decided on using information that was not beneficial to the applicants and may have affected the outcome of the application, this would have been rectified if an opportunity had been afforded to make the appropriate amendments to the plans.

Perhaps at this point the Panel could take into consideration the dwellinghouse erected adjacent to 2 Mousebank Lane (CL/07/0276) where the garden ground is detailed as being 5.8 metres in depth. When measured the garden ground actually measures approximately 3.5 metres yet is still considered an appropriate garden size, although the Planning Officer notes that this is considered a gap site the Panel should be made aware that this ground and the detached garage initially belonged to the property at 2 Mousebank Lane until a portion of the garden ground and garage were purchased by a local building firm who subsequently fenced off the new garden ground to 2 Mousebank Lane thus creating a vacant site from garden ground.

With regards to the Planning Officer's concerns over the privacy of utilising the side area of ground at 53 Waterloo Road as a garden, privacy could easily be secured by appropriate planting and screening, this area is not overlooked by any other properties and would have the gable of the house at one side, a 1.8m fence at the proposed house and the existing 2m wall parallel to Wheatlandside.

The comments regarding garden sizes these have been covered at 1.3.

The issues relating to habitable windows and the planning requirement for 20m window to window distances again it should be noted that the application is in principle and no house design has been agreed. If the Planning Officer has concerns regarding window to window issues these could be overcome by conditions of consent and would be addressed by tailoring the house design to meet these requirements.

**3.1 (a)** Please see below the responses to the Reasons for Refusal to CL/10/0189.

**Refusal Reasons 1 and 2** The applicant does not agree with the Planning Officer's opinion that the size and shape of the plot would not permit development of a standard compatible with existing development in the area. As mentioned on several occasions the area is varied and mixed. The application is in principle only and as such the design of a house should not form part of any judgement for the application, however the applicants accept that conditions may be attached to the consent which the design of the house would be guided by.

Further to issues associated with road safety the Roads Department refusal states that for the entrance on Wheatlandside a distance of 10m from the junction of Scarletmuir, which the proposed entrance would be, constitutes refusal, yet if the entrance were to be moved to Scarletmuir and sited 10m from the junction of Wheatlandside it would be acceptable. The recommended splay line of 35m on a 30mph road is achievable by siting the entrance on Wheatlandside at a distance of 10m from the junction. As such the applicants are not clear on the reason for the refusal from the Roads Department. (PRODUCTION 7)

The applicants have endeavoured to amend the application taking into consideration the observations made by the Planning Officer on the previous application CL/09/0065. However it would appear that meeting the policy guidance is subject to the Planning Officers interpretation.

**Refusal Reason 3** The application does meet required policy, however the Planning Officer's assumptions / interpretation of the design of the proposed house would appear to be influencing decisions. The house design should not be considered as part of an application in principle, it is at the time of the detailed application for these considerations to be made.

All other points have been covered by earlier responses.

**Refusal Reason 4** As detailed in our response at 1.3 it is accepted that the submitted plans were inaccurate, this in no way benefited the applicants and as previously stated the Planning Officer should have requested accurately scaled plans prior to registering the application or as soon as the error was discovered. Is it appropriate that a decision is taken on a planning application with inaccurate plans and did the Planning Officer avoid advising the applicants in order to have an additional reason for refusal?

**Refusal Reason 5** It would appear that the Planning Officer is concerned that if the application were approved that a resubmitted application for the rear garden of 57 Waterloo Road would need to be approved as a precedent would have been set by this approval. However it is considered that precedent is already set by the approval of the applications at 2 and 4 Mousebank Lane and 39 Waterloo Road.



Consideration should also be given to the creation of a streetscape vision which this application and a further application for the rear of 57 Waterloo Road would achieve as it would result in a full street from the junction at Waterloo Road round Scarletmuir rather than the existing streetscape were the street is 2 houses short of a full streetscape.

- 3.1 (b)** The response by the Planning Officer is a contradiction, it states that it is **accepted** that in this area of Lanark there is a **mixture of styles of housing** ranging from the more traditional cottages, villas and 1950's bungalows to 1970's and 1980's dwellings. **All of which have different storey heights, different size plots and garden provision.** It is clearly shown by the above responses and the accurate plans that the proposed plot and those remaining are comparable to those surrounding. It is the applicants opinion that the new plot would be a positive addition to the character of the surrounding area.
- 3.1 (c)** Further to issues associated with road safety the Roads Department refusal states that for the entrance on Wheatlandside a distance of 10m from the junction of Scarletmuir, which the proposed entrance would be, constitutes refusal, yet if the entrance were to be moved to Scarletmuir and sited 10m from the junction of Wheatlandside it would be acceptable. The recommended splay line of 35m on a 30mph road is achievable by siting the entrance on Wheatlandside at a distance of 10m from the junction. As such the applicants are not clear on the reason for the refusal from the Roads Department.
- 3.1 (d)** Response regarding Roads Service refusal at 3.1(c) above.

As explained previously the applicants consider that the remaining garden space is adequate for the existing properties and exceeds minimum requirements.

It is not intended to remove the traditional wall which runs parallel with Waterloo Road only the wall within the site will be removed, this wall was built by the existing occupants in 2000 at the time of renovation works, this wall is scheduled for removal regardless of the outcome of this Review. The Planning Officer appears to have been confused as the delegated report refers to the removal of a traditional wall running parallel with Wheatlandside, as previously advised this wall is a pre-fabricated concrete wall circa 1960's.

As explained previously the plot meets requirements in terms of size and is comparable to others in the area.

- 3.1 (e)** The classification of the site at 39 Waterloo Road (CL/07/0221) as a gap site does not detract from the fact that this is the existing garden area of 39 Waterloo Road. The only area where the site at 53 / 55 Waterloo Road does not fall into the gap site classification is that it is a road that bounds the site to the west and not an adjoining property, had there been an adjoining property would the application have been granted under the auspices of it being a gap site? It is therefore considered by the applicants that there are similarities to both proposals in terms of precedence.

PLANNING APPLICATION CL/10/0189

*Proposed Subdivision of Garden Ground and Erection of Dwellinghouse (Planning Permission in Principle) at 53 / 55 Waterloo Road, Lanark*

The purpose of (CL/07/0221) being brought to the attention of the Review Panel is to suggest that policies are being interpreted inconsistently, for example, no concerns were raised over the removal and lowering of a traditional stone wall at 39 Waterloo Road to create an access for the new dwellinghouse. Yet in considering the application at 53 / 55 Waterloo Road it is clearly an issue of concern for the Planning Officer that a 1960's built prefabricated wall is to be removed for access. Also in application CL/07/0221 the creation of an access onto Waterloo Road is not highlighted as an issue, yet the creation of an access on Wheatlandside is. Both roads are a 30mph limit and both have the same volume of traffic, in fact the width of the road at Wheatlandside is considerably wider and has considerably less on street parking than Waterloo Road. The condition of the road surface at Wheatlandside is considerably superior to that on Waterloo Road, which has been in a state of disrepair for over a year.

Application CL/07/0221 at 39 Waterloo Road requires the creation and use of front garden parking, again this was not highlighted as an issue for this application but is an issue for application CL/10/0189.

- 3.1 (f)** Applicants accept that CL/02/0497 was referred to incorrectly and should have been CL/05/0497.

CL/07/0276 - as answered previously although classified as gap site it does not take away from the fact that this ground was garden area for 2 Mousebank Lane and that the rear garden area is not as detailed at 5.8 metres in depth rather the garden area measures approximately 3.5 metres yet this is still considered an appropriate garden size. Whereas the garden size and location proposed at 53 Waterloo Road is deemed as unusable by the Planning Officer.

Issues of overlooking and privacy are raised as concerns in the application for 53 / 55 Waterloo Road, yet overlooking and privacy issues did not appear to be an issue for the application at Mousebank Lane.

The Committee Report for CL/07/0276 acknowledges that the development does not fully comply with the Council's Residential Development Guide with regards to window distance and rear garden size. Yet in the Statement of Observations for CL/10/0189, section 2.2 relating to Policy DM5 states "there will be a presumption against the development of a new house within the curtilage of an existing house unless all of the criteria listed in the policy can be met."

With regard to road safety issues highlighted for the application at 53 /55 Waterloo Road and referred to earlier in the response at 3.1(a) no road safety issues were highlighted for the application at Mousebank Lane although clearly this is a one track, substandard road.

Furthermore an earlier application on the same road (P/LK/01890198 - Mousebank Lane) as referred to by the Planning Officer in the Statement of Observations, was partly refused on grounds of road safety due to increased traffic along a substandard road.

The purpose of (CL/07/0276) being brought to the attention of the Review Panel is to suggest that policies appear to be interpreted inconsistently.

## PLANNING APPLICATION CL/10/0189

*Proposed Subdivision of Garden Ground and Erection of Dwellinghouse (Planning Permission in Principle) at 53 / 55 Waterloo Road, Lanark*

CL/08/0385 - it would not be appropriate for the applicants to comment on this application which was approved on the grounds of socio-medical conditions. This site had already been subject to a number of refusals including P/LK/01870443; P/LK/01890198 and CL/07/0722 which did not highlight the socio-medical grounds and which were refused on grounds of road safety; privacy issues; plot size; garden size, etc. However the Planning Officer states *"the applicants had also addressed most of the issues that led to the original refusal"*. It is unclear how this has been achieved as privacy issues; substandard garden areas and road conditions remain unchanged.

- 5.0 From the Planning Officer's list of productions items 1, 3 and 4 all relate to application CL/09/0065, the Review Notice is for application CL/10/0189 and it is disappointing to note that the Planning Officer continues to refer to the previous application for the site when this is not the application under consideration.

### RESPONSE TO LETTER OF REPRESENTATION

The letter of representation received from Ms I Main, 1 Scarletmuir, Lanark - the objector states that *"the site designated is too small for the proposed development of this house. The ground located behind number 53 is possibly big enough for a garage which would allow a vehicle to enter from Waterloo Road but it is ridiculous to imagine a house being built on this site."* The objectors initial letter of representation for application CL/10/0189 indicated that they believed the application did not include the land behind 55 Waterloo Road. As they make no reference to this land once again, I would suggest their assumptions are wrong and the planning application indicates that the plot is large enough for the proposed layout.

The applicants cannot comment on the objectors opinion on the dangers of the existing crossroads at Wheatlandside and Waterloo Road as this remains unchanged and has no bearing on application CL/10/0189.

### SUMMARY

The reasons for refusal relate to size; mass; amenity etc. however this is an application in principle and the Planning Officer's concerns could be conditioned on the consent and used to determine the appropriateness of a detailed application when an architect would have the opportunity to address the concerns by achieving a suitable design.

With regard to road safety the proposed vehicle access to the new plot onto Wheatlandside, 10m from the junction of Scarletmuir/Wheatlandside, was proposed with policy requirements in mind. It is confusing as to why this is unacceptable but to move the entrance onto Scarletmuir, 10m from the same junction is acceptable.

The inaccurate plans could easily have been addressed had the applicants been afforded the opportunity to do so by the Planning Officer.

With regard to the setting of precedent, the applicants feel that a precedent has been set by the approval of CL/07/0221 at 39 Waterloo Road. A precedent would also contribute to the completion of Scarletmuir to a full cul-de-sac and complete streetscape.

Where the applicants have made reference / comment to other applications in this report at no time are they suggesting any error on the relevant Planning Officer's decisions. These applications have been included to highlight the inconsistent interpretation of planning policy and assumptions when comparing to application CL/10/0189.

PLANNING APPLICATION CL/10/0189

*Proposed Subdivision of Garden Ground and Erection of Dwellinghouse (Planning Permission in Principle) at 53 / 55 Waterloo Road, Lanark*

**LIST OF PRODUCTIONS**

- 1 Photograph of Side and Rear Garden at 1 Scarletmuir, Lanark
- 2 Photograph of Side Garden at 1 Scarletmuir, Lanark
- 3 Photograph of Wall Running Parallel with Wheatlandside Surrounding Property at 53 Waterloo Road, Lanark
- 4 Photograph of Existing Front of House / Garden Parking Area on Waterloo Road, Lanark
- 5 Photograph of Existing Front of House / Garden Parking Area on Waterloo Road, Lanark
- 6 Photograph of Existing Front of House / Garden Parking Area on Waterloo Road, Lanark
- 7 Photograph of Proposed Access to Site onto Wheatlandside, Lanark

Revised copy of plans, amended by architect as stated in response, attached for information.

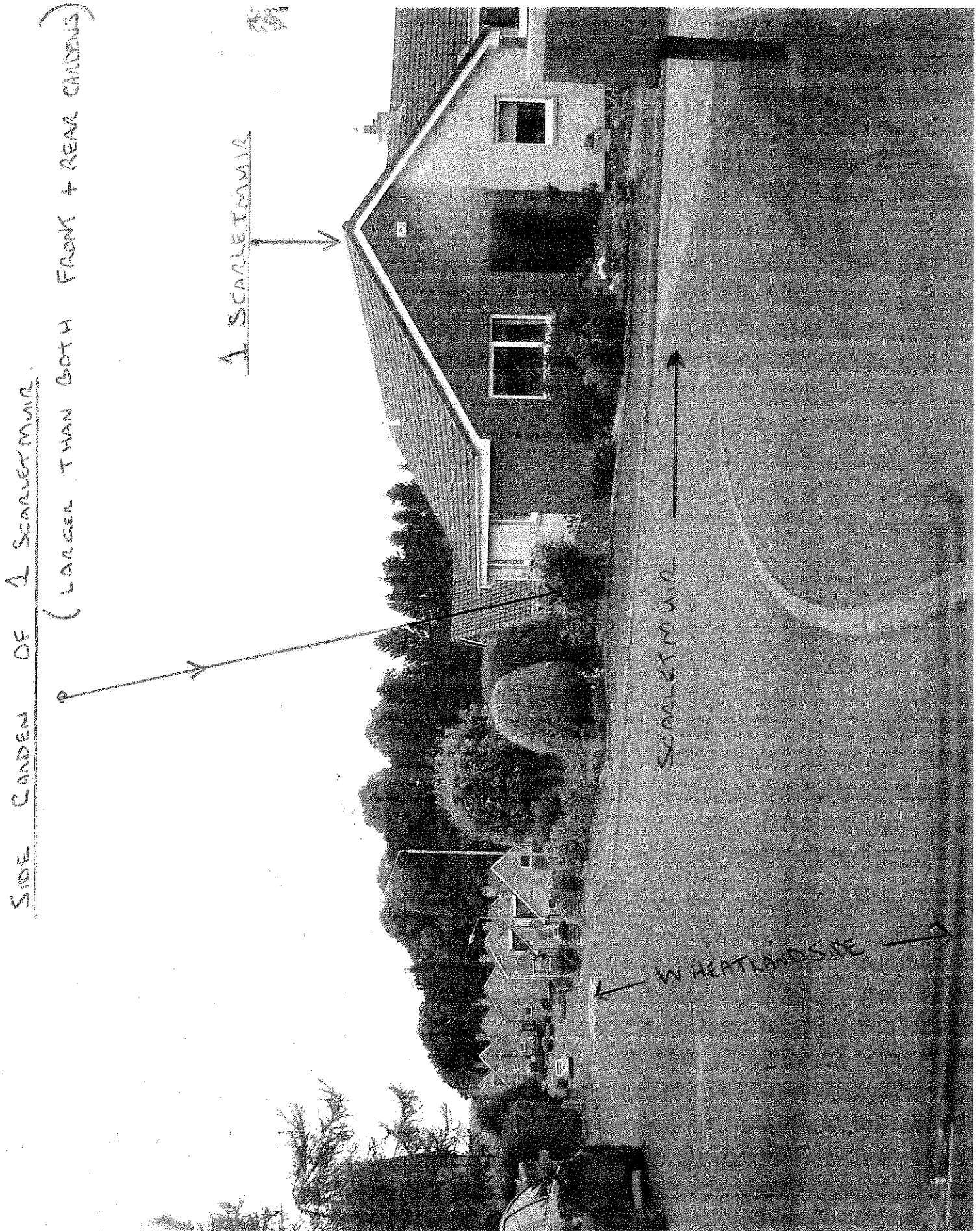
PRODUCTION ①

SIDE + REAR GARDEN AT 1 SCARLETMUIR



# PRODUCTION ②

SIDE GARDEN AT 1 SCARLETMUIR.



PRODUCTION

③

WALL RUNNING PARALLEL WITH WHEATLANDSIDE  
SURROUNDING PROPERTY AT 53 WATLCOO ROAD.



PRODUCTION ④

EXISTING FRONT OF HOUSE / GARDEN PARKING AREA  
ON WATERLOO ROAD.





PRODUCTION ⑤

EXISTING FRONT OF HOUSE / GARDEN PARKING AREA  
ON WATERLOO ROAD.



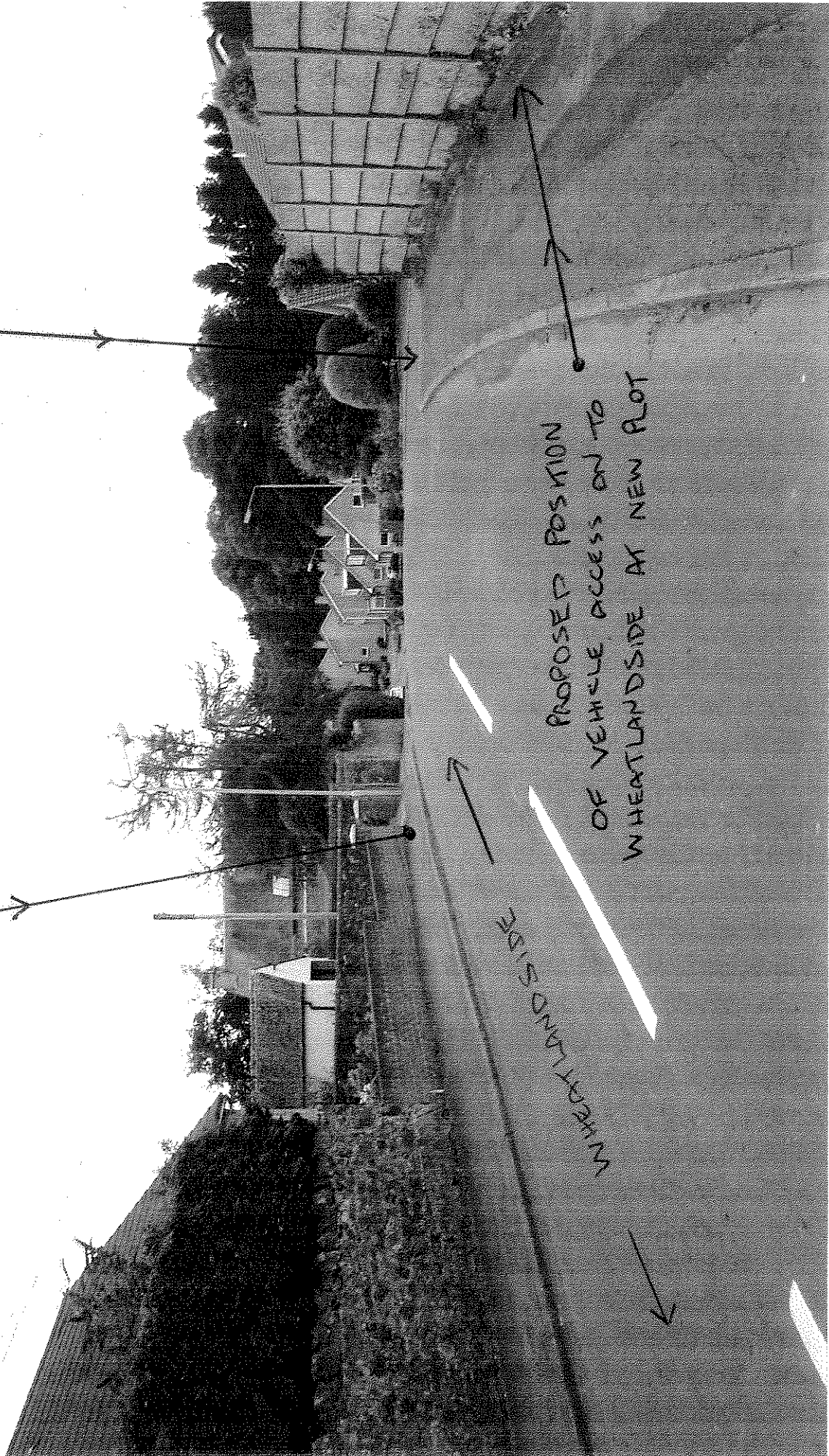
PRODUCTION ⑥

EXISTING FRONT OF HOUSE / GARDEN PARKING ON  
WATERLOO ROAD.



EXISTING ENTRANCE  
AT 26 WHEATLANDSIDE

EXISTING JUNCTION AT  
WHEATLANDSIDE + SCARLETMUIR



PROPOSED POSITION  
OF VEHICLE ACCESS ON TO  
WHEATLANDSIDE AT NEW PLOT

WHEATLANDSIDE