

## **STATEMENT OF OBSERVATIONS**

### **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.

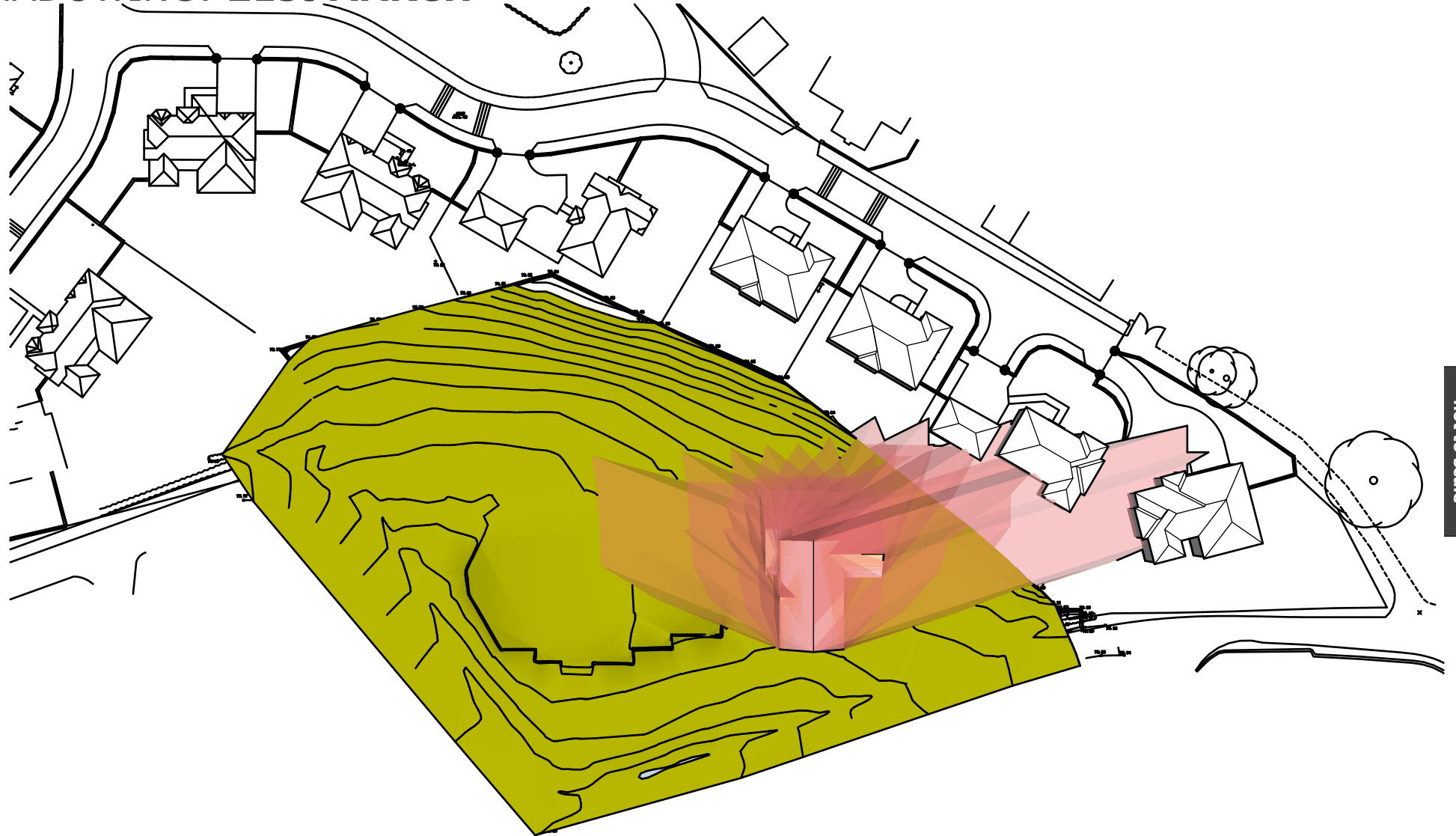
- (e) **The granting of consent for the proposed development will not set an undesirable precedent for further development which would affect the environment, privacy or amenity, rather it would set a desirable precedent.**

**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**

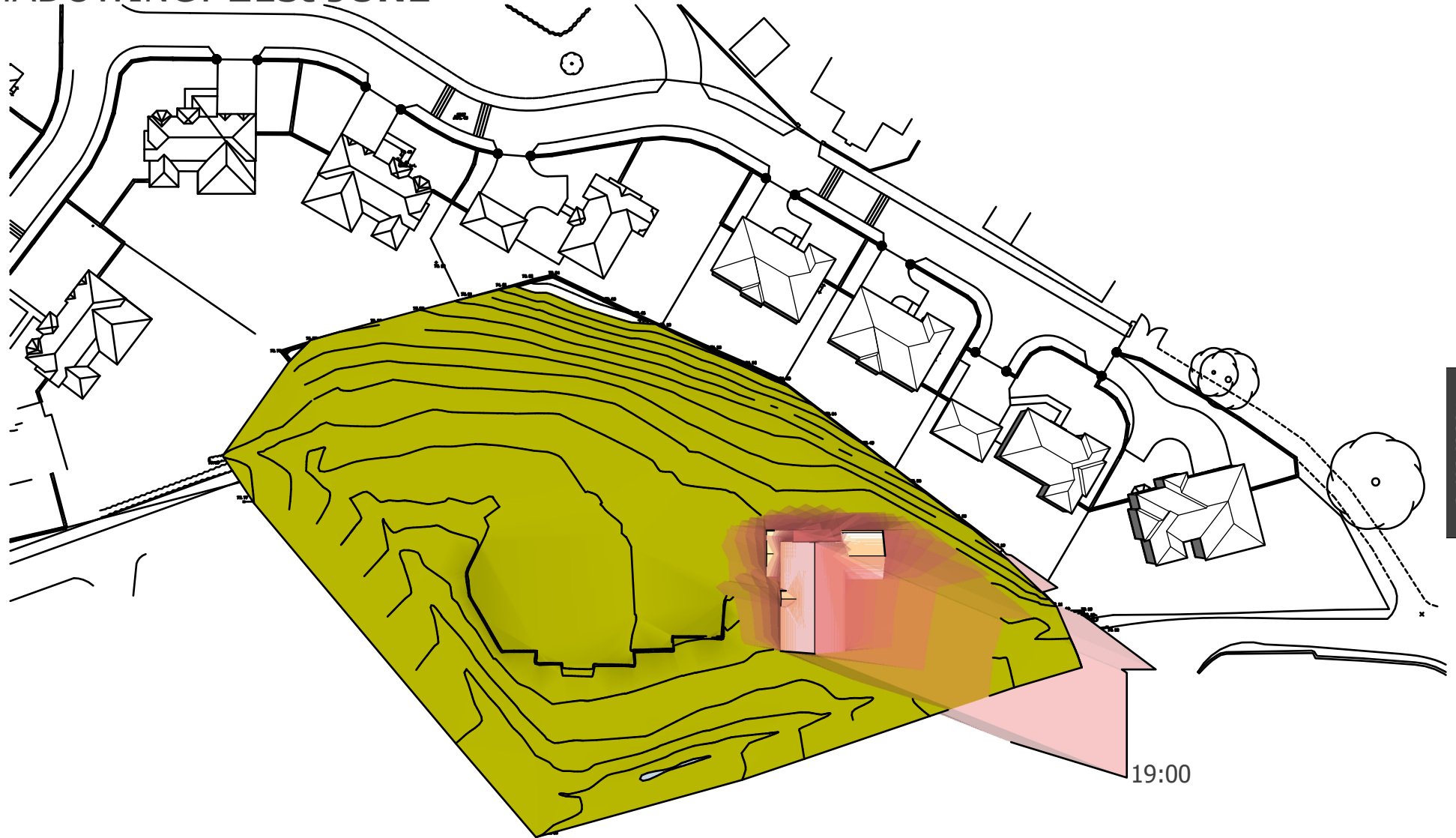
- 4.1 In summary, the proposed development does not accord with the provisions of the adopted Local Development Plan and the relevant associated supplementary guidance, or with the provisions of the proposed Local Development Plan 2 relating to sub division of garden ground. In addition, there are no 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

