

TCP/11/16(225)
Planning Application 12/01413/FLL – Alterations and
extension to dwellinghouse at 46 David Douglas Avenue,
Scone, PH2 6QQ

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

UNDER 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 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name MR. NEIL PATERSON

Address 46 DAVID DOUGLAS AVE
SCONE
PERTHSHIRE

Postcode PH2 6QQ

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name DOUGLAS BECKETT

Address FRANKIES PARK
CHAPELHILL
GWENCARSE
PERTHSHIRE

Postcode PH2 7NL

Contact Telephone 1 07918619333

Contact Telephone 2 01738 861122

Fax No

E-mail* ds.beckett@btconnect.com

Mark this box to confirm all contact should be
through this representative: ☒

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No
☒ ☐

Planning authority

PERTH & KINROSS COUNCIL

Planning authority's application reference number

12/01413/FW

Site address

46 DAVID DOUGLAS AVENUE,
SCONE, PERTHSHIRE.

Description of proposed
development

EXTENSION TO DWELLINGHOUSE

Date of application

9/8/12

Date of decision (if any)

9/10/12

Note. This notice must be served on the planning authority within three months of the date of the decision
notice or from the date of expiry of the period allowed for determining the application.

Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

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.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☐
2. One or more hearing sessions ☐
3. Site inspection ☐
4. Assessment of review documents only, with no further procedure ☒

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

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

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

ACCESS REQUIRED TO REAR2 GARDEN AREA AT 46 DAVID POLTHAS AVENUE, SLONE. ACCESS TO BE ARRANGED THROUGH APPLICANT OR AGENT TO SUIT.

Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

REFER TO SEPARATE DOCUMENTS.

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 new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

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.

1. SUPPORTING STATEMENT (A4 x 2 PAGES).
2. ANCIENT COUNCIL ADVICE NOTE #19 - (A4 x 2 PAGES)
3. EMAIL EXCHANGES (A4 x 7 PAGES).
4. PHOTOGRAPHS OF NEIGHBOURING HOUSE CONSERVATORIES
LOCATED IN PERTH & KINGS CROSS (2 PHOTOGRAPHS TAKEN AT
'THE SPIRES' DEVELOPMENT, ST. MARGARET).
5. PHOTOGRAPH OF CONSERVATORY AT 48 DAVID DOUGLAS AVE,
SCOTLAND TAKEN FROM APPLICANT'S REAR GARDEN.
6. SITE LOCATION PLAN (A4 x 1 PAGE)
7. SUBMITTED PLANNING DRAWINGS.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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 from that earlier consent.

Declaration

I the ~~applicant~~ agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

30/12/12.

1.0 Introduction

1.1 The applicant, Mr Neil Paterson of 46 David Douglas Avenue, Scone, Perthshire, made application to Perth & Kinross Council on 9 August 2012 for the erection of an extension to his house to form a living/family room area as an extension to his existing house kitchen and dining room areas.

1.2 The extension was proposed to the rear of the house on the North West elevation and was intended to allow for a greater living space within the existing property. The extension was intended to be single storey and however due to the proposed height of the eaves and overall roof height it was deemed to require formal planning approval.

2.0 Recommendation

2.1 That the reason to refuse the application to extend the house at 46 David Douglas Avenue, Scone (Ref: 12/01413/FLL) be overturned or referred back to the planning officer for further consideration.

3.0 Background

3.1 The applicant's property at 46 David Douglas Avenue is neighboured by houses of a similar style and scale at 44 and 48 David Douglas Avenue. Both of these neighbouring properties have built glass conservatories to their rear north western elevations. Both conservatories have no record of obtaining formal planning consent for their erection however it may be the case (although not confirmed) that both of these conservatoires fall under permitted development.

3.2 During the period of consideration of the planning application for the erection of the house extension at 46 David Douglas Avenue, the planning officer made comment regarding the distance between the proposed house extension and the neighbouring conservatory at 48 David Douglas Avenue, and noted that the window distance between the proposed extension's patio doors and the existing conservatory was breaching recommended window to window distances, and that this aspect would prejudice the approval of the consent for the house extension.

3.3 Following a telephone discussion between the planning officer (Mr Keith Stirton) and the applicant's agent (Mr Douglas Beckett) it was requested that the planning officer produce evidence of the guidelines used by PKC in reference to the recommended window to window distances. Further comment was made by Mr Beckett in that the existing conservatory at 48 DDA could not be considered a habitable room and that the Scottish Building Regulations make it quite clear that a conservatory is not a habitable room. It was therefore contended that to make a reference to a distance between a conservatory and a habitable room (such as the proposed living room extension to 46 DDA) was not sustainable. Further exchanges of emails on this subject were made between the parties and copies of these email exchanges are attached to this submission for reference.

3.4 No evidence of published guidelines used by PKC in this regard was produced in support of the planning officer's stance on this matter. The applicant's agent supplied evidence of guidelines produced by Angus Council and made suggestion that this could be used as a means to achieve an acceptable solution to the situation and a way forward, however this was not accepted by the planning officer.

3.5 The application was subsequently refused and notice dated 4 October 2012 was issued (copy enclosed).

4.0 Conclusion

4.1 The lack of a clear definition by PKC Planning authority as to the categorisation of habitable rooms within buildings lies at the heart of this matter. This aligned to a clear policy regarding distances between windows of both habitable and non-habitable rooms is required in order to avoid

further disputes in this regard. Both of these matters have been addressed by other local authorities and there is no reason why PKC cannot produce guidelines along similar lines.

4.2 The planning officer was concerned about the loss of privacy to a neighbour's conservatory despite the fact that a conservatory is a glazed structure designed to be looked out from and therefore it must be accepted that to see out, must also allow others to see into it. The concern that the neighbour would find a reduction in privacy is unfounded due to:

- The neighbour made no objection to the proposals during the planning process
- The neighbouring conservatory overlooks the entire garden area of the applicant's property and the concern that the planning officer is raising is irrelevant given that the existing conservatory has removed any privacy from the applicant's property and now is being used as a basis to inhibit the applicant's reasonable request to make a private house extension. A photograph taken from ground level in the applicant's rear garden shows the neighbouring conservatory at 48 DDA and the extent of the overlooking by the conservatory and the applicant's own loss of privacy.

4.3 In order to support the planning officer's view that a conservatory is a habitable room it must therefore be accepted that due to the normal width of urban house plots in typical housing estates, the erection of conservatories will restrict development. This is because the first conservatory erected in a line of houses will restrict the immediate neighbours from erecting a conservatory as the distance between them will usually be within 18m and therefore not allowable by PKC's planning officials. This will result in only every second house in a street being able to erect a conservatory. Such a situation would be nonsense and unsupportable on the assumption that a conservatory is defined as being a habitable room.

4.4 A conservatory cannot be considered a habitable room in a similar way to a living room, bedroom, kitchen or other room or space normally found within a house due to the fact that conservatories are mostly glazed structures, required to be separated from the rest of the house (under the strict requirements of the building regulations), unheated and not designed for use where privacy is a primary requirement for the function of the space. Consequently, conservatories should not be termed habitable rooms and used in the calculation of distance between windows of habitable rooms.

4.5 Investigation and research has shown that there are many instances within Perth & Kinross Council's boundaries where conservatories have been built in close proximity to each other. Examples of these have been given to the PKC planning officer as part of the debate over the applicant's planning submission but have been ignored. It is therefore apparent and demonstrable that there is no consistent approach by the PKC planning office in regard to this situation and that the applicant is being unreasonably treated.

5.0 Summary

5.1 It is requested that the Review Committee take this Supporting Document and the supporting evidence relating to this application into consideration in forming a view over this appeal to the refusal of the application for the extension of the house at 46 David Douglas Avenue, Scone)Ref: 12/01413/FLL).

Douglas Beckett – Architect (Agent)
Frankies Park
Chapelhill
Glencarse
Perthshire
PH2 7NL

30/12/12

retention of an existing hedge) will be required if a planning consent is to be forthcoming. Provision of a wall or fence will not resolve a problem caused by windows on a two storey extension within four metres of a boundary. In these circumstances other solutions will have to be sought e.g. opaque glass, roof lights, re-siting of windows etc.

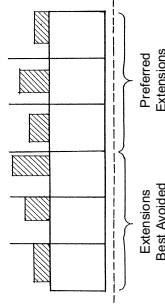
Again a condition will be imposed on the planning consent requiring the applicant to erect and retain the wall or fence or in the case of an existing hedge, to retain it at a height of at least two metres or thereabouts.

Balconies - Are a particular cause of friction between neighbours due to the serious overlooking problems and loss of privacy for adjacent dwellings and gardens. Accordingly balconies will only be permitted at first floor level or above where they do not cause an overlooking problem and loss of privacy. Such approvals are likely to be few.

SUNLIGHT/DAYLIGHT

The perceived loss of sunlight and daylight to a neighbouring property by a proposed extension, can be a major source of objection and distress. It is important, therefore, that every effort should be made to avoid or minimise the potential for loss of light to a neighbour when drawing up the plans for any extension. Loss of sunlight to garden ground will not be accepted as sufficient grounds to justify refusing planning consent but loss of light to a window might be. The distances specified above should provide sufficient sunlight and daylight protection where detached houses are involved.

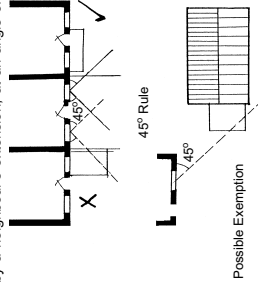
The most significant problem of sunlight or daylight loss however, probably occurs in terraced or semi-detached housing situations and it is here that most care needs to be taken. The first objective should be to keep your extension as far from boundaries as possible. At least a distance of two metres must be maintained between the wall of an extension and any window in the neighbour's property. Two metres may not seem a lot to an



objecting neighbour but as it is often possible to erect a two metre high wall or even an extension closer and without the necessity to obtain planning permission, this distance is seen as a reasonable compromise. A general rule of thumb guideline is that extensions be at least as far off the boundary as it extends out from the house walls.

However, as this is unlikely to be achievable in perhaps the majority of circumstances, the Council will expect any extensions to comply with the 45° rule.

The 45° Rule - This involves drawing a line from the mid-point of the sill of a window to a habitable room or kitchen which is potentially affected by a neighbour's extension, at an angle of 45° towards the



extension. If the proposed extension crosses that line it is unlikely to be acceptable. While there will be few grounds for exemption from the 45° Rule where semi-detached or terraced houses are involved, where an extension is sited well forward of the affected window, this would allow more light to reach it, therefore allowing for the 45° Rule to be relaxed a little.

It could speed up the processing of your application if sufficient details are provided with your submitted plans for the above calculation to be made. In particular you should illustrate the location of any windows on adjoining properties.

SIDE EXTENSIONS

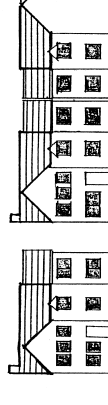
On any elevation of a house exposed to public view, an extension should always have a pitched roof, this is particularly relevant to side extensions.

There are also a number of other problems associated with side extensions. Whilst there is no legislation disallowing the building of an extension onto a boundary, for ease of access to rear garden ground and to provide room for maintenance of the extension, a minimum gap of one metre will be required. This will also eliminate the possibility of any part of the extension overhanging your neighbour's property (e.g. phones), which is a common source of friction between neighbours. This requirement may be relaxed where the neighbour has indicated, in writing, that they have no objection to the extension being built on the boundary. However, where the extension is especially dominant or long, a distance of more than one metre may be sought.

TWO STOREY EXTENSIONS

Because of their size and visual dominance, two storey extensions can present a range of additional problems, are more likely to attract objections from concerned neighbours and will be more stringently considered by the Planning Authority before being granted a consent. The various distances specified elsewhere in this Advice Note are unlikely to be relaxed for two-storey extensions, indeed more demanding standards may be required.

The additional problems of scale and overlooking created by two storey extensions have already been covered but in addition, where side extensions are proposed, it will be essential to maintain the character of an area by not filling the gaps between rows of two storey houses which would otherwise produce the appearance of an unbroken terrace. In dealing with such applications, the Council

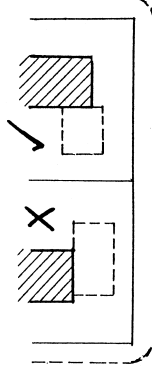


will consider the impact, not only of the proposal, but also the effect should the neighbour also wish a similar side extension. If the Council believes a reasonable gap will not be maintained, an application is likely to be refused. An extension set well back from the building line or frontage of the house is likely to be more successful than one aligned with the frontage of the house.

Because of their scale and visual prominence, a pitched roof will always be required on a two storey extension.

CORNER PLOTS

Extensions on the road frontage of a corner plot require particularly careful handling if they are to be successful and attract a planning approval. It is very easy to produce an extension that not only dominates the house but the junction and immediate neighbourhood also.



Extensions to properties on normal sized corner plots should ideally be to the rear, side extensions are only likely to be acceptable where the scale is sub-servient to the original, involves a relatively small floor area and remains a respectful distance from the roadway.

LOSS OF GARDEN GROUND

Almost all applications to extend a house results in a reduction in available garden ground. The over-riding consideration of the Council will be to ensure that over-development does not take place, that the general ratio of buildings to open space that exists within the area is maintained.

As a general guide, however, 100 square metres of usable and private (to the rear) amenity ground should be available for family use. In areas that are densely built-up, a lesser area may be acceptable as long as at least 50 square metres of genuinely usable, private space remains available after the erection of a proposed extension.

LOSS OF PARKING FACILITY

Where approval of a planning application will entail the loss of the sole space for off-street parking, with no viable alternative being available, consent will not be forthcoming.

LOSS OF VIEW

No householder has a right to a view and therefore, objections based on loss of view will not be regarded as a material consideration in determining the application. Nevertheless, in the interests of good neighbourliness, applicants are recommended to consider the impact of their proposal on the views of neighbours.

PRECEDENT

You should bear in mind when designing your extension, particularly the positioning of windows, that you will be setting a precedent. In other words, should they apply, your neighbours are likely to be granted consent for similar.

BUILDING REGULATIONS

It is probable that a Building Warrant will be required for an extension and any potential applicants are advised to consult with the Building Control Unit of the Planning & Transport Department.

INTRODUCTION

Most householders involvement with the planning system comes when they wish to extend their home or as a neighbour to someone else extending theirs. This Advice Note endeavours to convey to householders contemplating an extension to their home, what the requirements of the Planning Authority are in order to secure planning approval.

The Advice Note cannot cover all possible situations or solutions but sets out the general principles which Angus Council consider important when assessing proposals for house extensions, the overall objectives of which are:-

- (i) the retention of the existing character of an area;
- (ii) allowing a reasonable freedom of choice for owners; and
- (iii) protection of the amenity of neighbours.

Because of the differing considerations, if you are considering an extension within the roofspace (e.g. involving dormers) you should refer to Advice Note 3 "Roofspace Extensions", or if your proposed extension is on the front of the building, you should refer to Advice Note 15 "Front Extensions". This Advice Note covers all other situations, including conservatories.

It is worth bearing in mind that some houses were never designed to be extended at all or have already been extended to their limit. In such circumstances, if additional accommodation is essential, you may not be able to achieve it in your present house.

PERMITTED DEVELOPMENT RIGHTS

Not all house extensions require planning permission, the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 conveys certain rights on property owners to build extensions without the necessity to obtain planning permission, known as "permitted development".

Accordingly, you are advised to seek guidance from the Planning & Transport Department before progressing your plans too far.

Sympathetic consideration will be accorded to extensions that only just fail to fall within the ambit of "permitted development" but dependent on the circumstances, the Planning Authority does reserve the right to require such proposals to fully conform with the guidance contained in this Advice Note.

GENERAL ADVICE

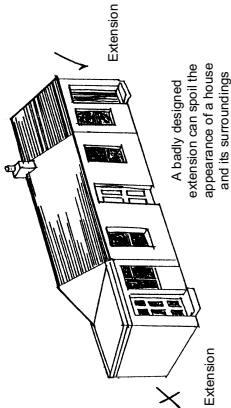
It is recommended that you seek professional advice from someone trained and experienced in designing buildings - a well designed extension can enhance your property, a poorly designed extension can make it difficult to sell. The Royal Incorporation of Architects in Scotland (RIAS) can give you a list of local architects (the list can be viewed at the Planning Office) or you can find them in the Yellow Pages.

Irrespective of whether or not you engage a professional agent, the design of house extensions needs advice as early as possible - you are therefore advised to contact one of our Development Control Officers to discuss your proposals well before submitting an application. There may be more than one way of providing the extra space you desire and a consultation with the officer will reveal which is the most acceptable or in the case of unacceptable designs, perhaps how they may be made acceptable. Sketch plans prepared in advance can be helpful in comparing different schemes.

Good design need not cost more, but even if there is an increase in the initial cost, in the longer term there may be benefits from reduced maintenance costs, e.g. pitched roofs cost less to maintain than flat roofs.

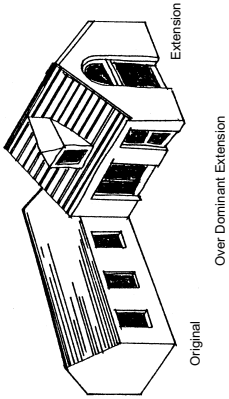
Many people want to extend their homes in different ways: if everyone did exactly as they wanted, problems could be caused for others living close by, or the whole appearance of the area might be spoiled.

Extensions should not over-dominate the existing house or be designed merely to fit a required amount of accommodation. They should normally be sympathetic in style to the original building, although this general principle may be discarded if an architectural solution of exceptional quality is proposed. It should also be recognised that traditional and modern buildings may need to be treated in different ways.



SCALE

As a general rule the Planning Authority will not look favourably on extensions which dominate the existing house, i.e. the bulk of the extension overwhelms the original house and drastically changes its character or the character of the area. The scale of any proposed



extension should respect and be sub-servient to the existing building. Extensions not exceeding 50% of the original ground floor area of the existing building are most likely to find favour with the Planning Authority, while extensions of more than 100% will rarely be approved.

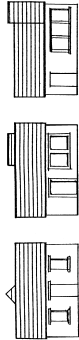
Extensions in excess of 50% are most likely to receive approval where the current accommodation is extremely restricted (e.g. but 'n ben), where the extension is not seen from any public area, where the area comprises modern houses of a mixed scale or where a unique architectural design solution is proposed. In all cases the extent of the property outillage and especially the amount of amenity space remaining after extending, will be a determining factor.

ROOFS

The roof of a building often plays the most important part in its overall appearance. Extensions which copy the roof type and angle of pitch of the original are usually more successful than those that introduce a completely different type of roof. The latter nearly always appear as an obvious addition tacked onto a house.

The roofing material of any pitched roof extension should match that of the original.

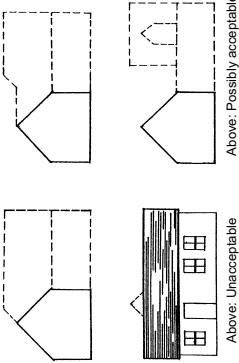
Flat roofed extensions are not generally encouraged but may be acceptable where, for instance, they are not visually prominent.



As a general rule the height of an extension should not exceed the existing ridge height of the house.

Again, an original architectural design may produce an acceptable solution to this general restriction.

For a rear extension where additional height is necessary to meet modern standards or regulations, a solution may be achieved by providing a low-roofed/flat-roofed link, however, it will be necessary



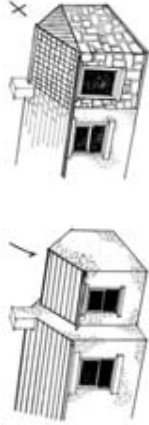
to demonstrate (e.g. by perspective sketches) that the roof of the extension is not readily viewed above the roofline of the original building.

A full two storey extension onto a single storey dwelling is unlikely to be acceptable under any circumstances.

MATERIALS

Materials used for external finishes should, as far as possible, match the existing property. This can be straightforward with modern buildings but not always possible with an older stone building. In cases such as this, it may be acceptable to use a traditional wet hatched or dry dash finish coloured to match the stone as closely as possible. A design justification statement would be required for the Planning Authority to even consider the use of contrasting colours.

The diagrams below show the good use of materials in an



extension and poor use. The good example incorporates a technique that is highly recommended and helps to conceal the joints between old and new where side extensions are involved and that is a slight set back from the house front.

PRIVACY AND OVERLOOKING

While successive Governments have confirmed that the Planning Regulations are not in place to provide a neighbour protection service, neighbours are entitled to expect some consideration to be given to their privacy when an adjacent property extends.

The "Permitted Development" rights mentioned above make it impossible for total privacy to be assured and except in the most isolated rural location, few householders can claim not to be overlooked to some degree. The guidance that follows, therefore, is intended to provide for the maintenance of a degree of privacy without becoming unduly restrictive on persons wishing to extend their property.

Window to Window Privacy - The following guideline MINIMUM distances between windows on a proposed extension and existing windows on a neighbouring house should be observed. These distances should ensure a reasonable degree of amenity and privacy

but there may be instances where they may not be acceptable for townscape reasons e.g. out of character with the surrounding area, the presence of trees, etc. and conversely, in higher density areas, it may even be possible to reduce some of the distances. The distances can also be reduced when the windows are at an angle to each other.

Main Living Room Window to:-

- Main Living Room Window 20 metres
- Other Habitable Room Window 15 metres
- Non-Habitable Room Window 12 metres
- Blank Wall 12 metres

Other Habitable Room Window to:-

- Other Habitable Room Window 12 metres
- Non-Habitable Room Window 10 metres
- Blank Wall 10 metres

Non-Habitable Room Window to:-

- Non-Habitable Room Window 4 metres
- Blank Wall 4 metres
- Blank Wall to Blank Wall 2 metres

Definitions: In this context habitable room includes kitchen.

The initial objective of the architect or designer in producing the extension plans should be to avoid conflict with the guidance by careful siting of windows or, in appropriate circumstances, the use of obscure glass, high-level windows or velux windows. In dealing with planning applications, the Council will also pursue these options where the 'rules' are infringed.

Should all other options not provide a solution, the provision of a two metre high wall or fence between the problem windows may be acceptable as a solution for single storey extensions. A condition will be imposed on the planning consent requiring the applicant to erect and/or retain the wall or fence. An existing hedge will also be acceptable if at or near two metres in height and again a condition will be imposed to ensure its retention. This solution may not be appropriate in all circumstances, for instance where ground levels vary or where the extension would be too visually intrusive on the existing house, especially if it is the front of the existing house that is affected.

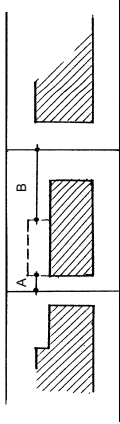
If for some reason the affected neighbour does not wish a wall or fence to be erected, an approach to the Council from that source to have the condition removed is likely to be positively received. In any case if the neighbour's window is less than two metres from the proposed wall or fence, the provision of such a structure will not be acceptable and unless an alternative solution can be found, the application to extend is likely to be unacceptable.

Where two-storey extensions are involved the option of a two metre high wall or fence to allow a reduction in these distances is unlikely to be acceptable.

Garden Overlooking - As previously suggested, it is a rare garden that is not currently subject to a degree of overlooking and "Permitted Development" rights often increase it even more. Accordingly, it would not be appropriate for such a degree of protection to be accorded to garden overlooking as to make it difficult for property to be extended.

The initial objective should again be to avoid the situation arising by careful placement of windows etc.

Where there is no obvious means of avoiding overlooking from extension windows and the window(s) are within one to four metres of the boundary, the provision of a two metre high wall or fence (or



CHX Planning Local Review Body - Generic Email Account

From: DS Beckett [ds.beckett@btconnect.com]
Sent: 26 September 2012 11:28
To: Keith Stirton
Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL
Attachments: 07_01393_FUL-DELEGATED_REPORT-118486.pdf; 07_01393_FUL-ELEVATION_AND_FLOOR_PLAN-106120.pdf; 07_01393_FUL-SITE_PLAN-106119.pdf

Dear Mr Stirton,

My client (the applicant) for this planning application has confirmed that he wishes to go forward with a decision based upon the submitted application.

Since our last correspondence we have become aware of various instances of sun room/conservatory type structures that either look directly in towards each other or are considerably closer than the distance that my client's extension would be to his neighbour's conservatory.

In order to give an example of this I attach PDF documents of a planning consent given for the erection of houses at Plots 1 and 2 (Har 01 and Har 02), The Spires, St Madoes, this being a development that I drive past virtually every day. These houses have now been built. Both houses on Plots 1 and 2 have sun rooms that have opposing windows and are within a very few metres of each other.

My client is also examining the conservatory extension of his neighbour's property as we have become aware that it has been constructed without planning consent, although the dimensions of it may or may not show that it is permitted development. If it required planning consent then we would view its existence as being prejudicial to my client's planning application.

I believe that you are creating a precedence here that could lead to restrictions on neighbours being able to erect conservatories. In effect the first person to erect a conservatory in a housing estate would then dictate that only every other house could erect a conservatory based upon your definition of such structures being habitable rooms and the distance required between windows.

I hope that you can review your position on this application as we would wish to follow up any refusal on the basis of the proximity of 'habitable room' windows.

Many thanks for your assistance.

Douglas Beckett

From: Keith Stirton
Sent: 26 September 2012 11:08
To: DS Beckett
Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL

Dear Mr Beckett

Are you in a position yet to confirm how your client wishes to proceed with the above application in light of our previous conversations?

Regards

Keith Stirton
 Technician – Planning & Regeneration
 Perth & Kinross Council
 The Environment Service
 Pullar House
 35 Kinnoull Street
 Perth
 PH1 5GD

Website www.pkc.gov.uk
 Please don't print unless necessary

From: DS Beckett [<mailto:ds.beckett@btconnect.com>]
Sent: 06 September 2012 14:15
To: Keith Stirton
Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL

Hi Keith,

I find your response very disappointing and somewhat short of what I would have hoped for from the Council given the circumstances and the fact that PKC does not have clear general guidance on this matter, while I have been able to present evidence of established practice within a neighbouring authority.

Given this situation I will consult with my client as to how he may wish to take this forward however I will recommend to him that the application be determined by you and due process to follow to appeal against any refusal.

I will be back in touch with you to confirm the applicant's decision hopefully within a few days.

Regards,

Douglas Beckett

From: Keith Stirton
Sent: 06 September 2012 14:05
To: DS Beckett
Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL

Dear Mr Beckett

As previously explained, it is necessary to make a clear distinction between what building standards consider being a habitable room (for energy efficiency purposes) and what development management consider being a habitable room (for privacy purposes).

Understandably, building standards can not expect the thermal efficiency of a conservatory to match that of a solid roofed structure.

However, this is entirely different to the remit of my assessment of the planning application, which must take into account residential amenity, including privacy.

As you will be aware, I must determine the planning application in accordance with the development plan, taking into account other material considerations.

As it stands, I find the proposal not to be in accordance with the development plan, which seeks to retain and where possible improve existing residential amenity.

This is on the basis of my assessment of the context of the site and surrounding area and the factors covered

in my original e-mail of 27 August 2012.

Please therefore confirm whether you wish to proceed with the proposal as submitted or whether you wish to make any amendments prior to me progressing my recommendation.

Kind regards

*Keith Stirton
Technician – Planning & Regeneration
Perth & Kinross Council
The Environment Service
Pullar House
35 Kinnoull Street
Perth
PH1 5GD*

*Website www.pkc.gov.uk
Please don't print unless necessary*

From: DS Beckett [<mailto:ds.beckett@btconnect.com>]
Sent: 06 September 2012 12:47
To: Keith Stirton
Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL

Hi Keith,

I too came across the Stirling interpretation however the planning meeting where the issue was raised reported that they too could not find any standard and universally applied definition of habitable room. So they decided to make up their own and publish it under the DAN guidance.

BRE definition as far as SAP calculations are concerned defines a conservatory only as part of a habitable room if there is not a door separating the conservatory from a habitable room such as a living room. In order to comply with the building regulations the neighbour's house should have such a door separating it from the rest of the building and therefore not qualifying as a habitable room.

Given that the building regulations in Scotland clearly define a conservatory as not being a habitable room and common sense suggests that such a conservatory can only be usefully be used for approx. 6 months of the year then I do not think that your interpretation of habitable room is defensible. However given that we need to make progress with this I would refer you to the guidance for extensions (section Privacy and Overlooking) published by neighbouring Angus Council. I attach a pdf for reference. You will see that they suggest minimum separating distances based upon the nature of the rooms that are involved and I think that this is a reasonable guide under the circumstances.

Given the absence of PKC printed guidance in this respect I would ask for your consideration of the Angus model.

Regards,

Douglas Beckett

From: Keith Stirton

Sent: 06 September 2012 12:26

To: DS Beckett

Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL

Dear Mr Beckett

Further to my previous e-mail and our conversation earlier today.

As discussed, our long standing practice is to ensure a minimum of 18 metres distance between directly opposing windows (particularly in cases where there is insufficient mitigating screening in between the windows).

This rule of thumb is derived from the BRE Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice.

Although we do not have our own supplementary planning guidance on this matter, this guidance is what informs our assessment of development proposals.

Rather than buying the above guidance document you may be interested in the simplified extracts of the guidance that are available in the form of a Development Advice Note from Stirling Council (although the decking element is now out of date since the introduction of new legislation).

http://www.forthvalleygis.gov.uk/dan_daylight.pdf

Whilst the neighbouring conservatory is not an 'apartment' in terms of the building regulations, it is important to draw a distinction between the definition of a 'habitable room' for building regulations and for the purposes of assessing conflict of privacy.

I look forward to hearing from you soon.

Kind regards

*Keith Stirton
Technician – Planning & Regeneration
Perth & Kinross Council
The Environment Service
Pullar House
35 Kinnoull Street
Perth
PH1 5GD*

Website www.pkc.gov.uk

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From: Keith Stirton

Sent: 27 August 2012 11:57

To: 'DS Beckett'

Subject: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: 12/01413/FLL

Dear Mr Beckett

I write in connection with the above planning application, for which I am the case officer.

Having inspected the site on 24 August 2012 I am now in a position to offer some comments on the proposal. Whilst I am generally supportive of the proposal there are two elements which cause concern in relation to privacy and residential amenity.

I am content that the corner windows would not present any significant issues, as they would provide only oblique views from the extension.

However, the patio doors and the raised timber decking are within close proximity to the neighbouring conservatory (no.48).

Given the topography of the rear garden, existing boundary treatment and relative positions of proposed patio doors and raised decking and the neighbouring conservatory, the current proposal presents an unacceptable

conflict of privacy as direct lines of sight would be created between opposing windows (at close proximity), which breaches minimum recommended window-to-window distances.
 I would therefore suggest that the patio doors and decking are removed from the proposal.
 In order to access the rear garden from the house more easily it may be possible to have a flight of steps going down to the right upon exiting the utility room?

I look forward to hearing from you soon.

Kind regards

*Keith Stirton
 Technician – Planning & Regeneration
 Perth & Kinross Council
 The Environment Service
 Pullar House
 35 Kinnoull Street
 Perth
 PH1 5GD*

Website www.pkc.gov.uk
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Team - email: foi@pkc.gov.uk General enquiries to Perth & Kinross Council should be made to enquiries@pkc.gov.uk or 01738 475000. General enquiries to Live Active Leisure Limited should be made to Leisure@liveactive.co.uk or 01738 492440. General enquiries to TACTRAN should be made to info@tactran.gov.uk or 01738 475775. Securing the future... - Improving services - Enhancing quality of life - Making best use of public resources.

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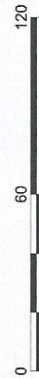








Location Map



Scale 1:2500

Supplied By: **Danscot Perth**
Serial number: 001047647

Plot Centre Coordinates: 314076, 726619

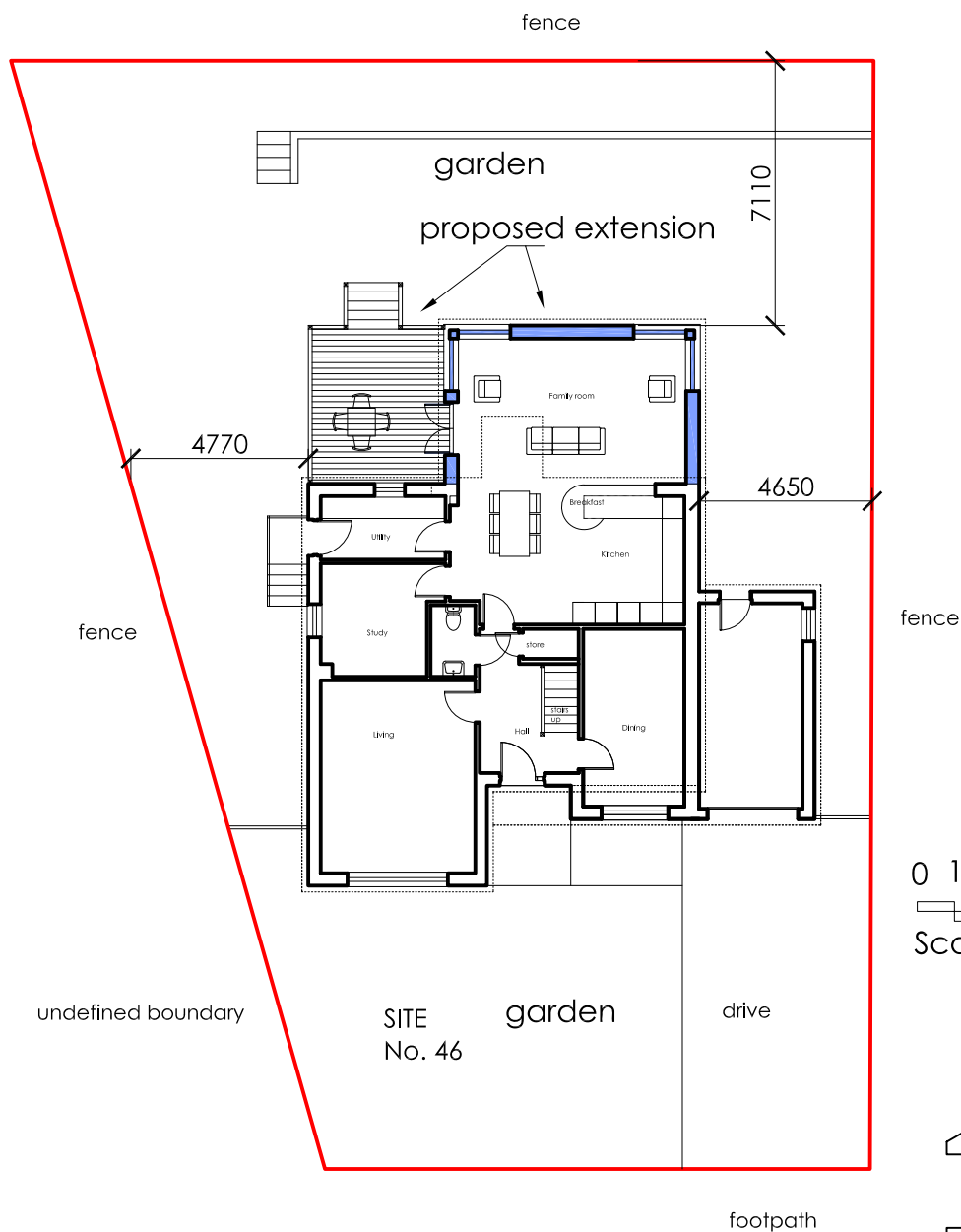
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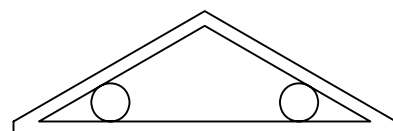
The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary



0 1 5m 10m

Scale in metres (1:200 scale)



DS Beckett
Architect

Frankies Park, Chapelhill, Glencarse
By Perth
PH2 7NL
01738 861122

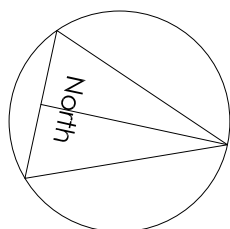
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46 David Douglas Aveune,
Scone

drawing:
Plot Plan

drawn by: revision:

date: 2012.06.08 scale: 1:200

project no: 6088 drawing no: 6088/P/04

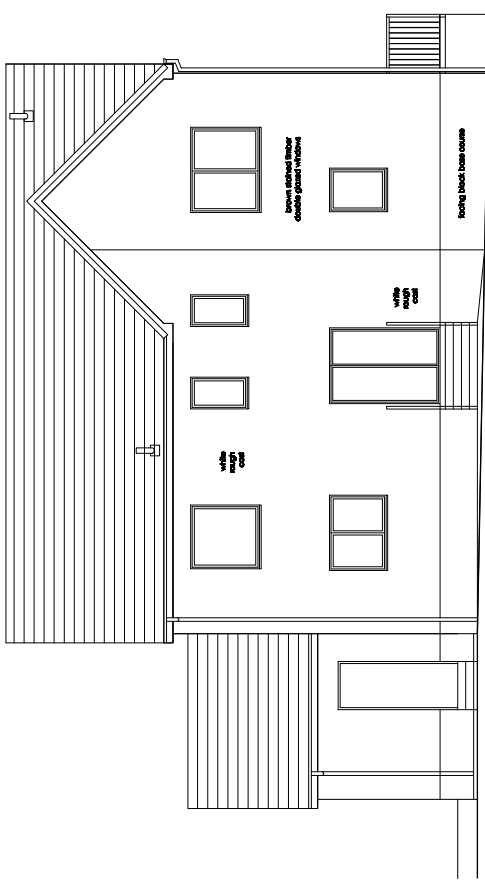


Plot Plan
1:200 scale

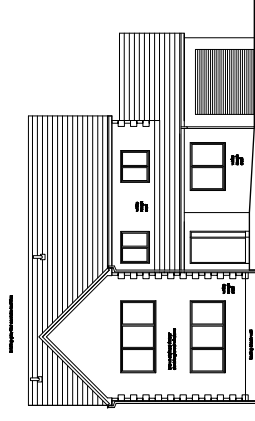
Site area - 560m²

David Douglas Avenue roadway

existing grey flat concrete roof line

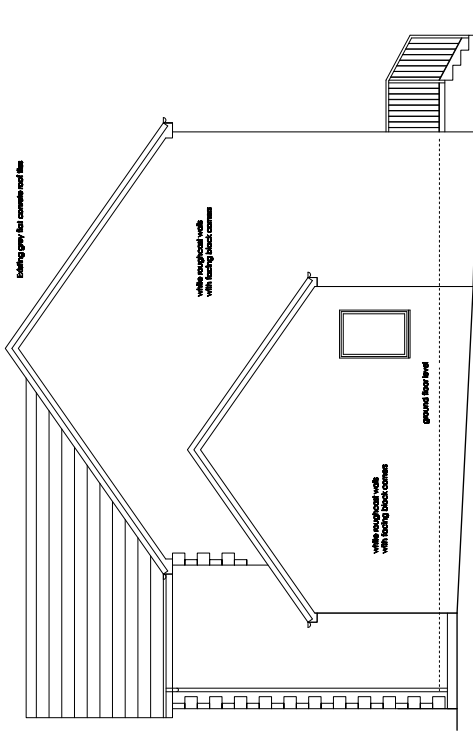


Rear elevation - existing
1:50 scale

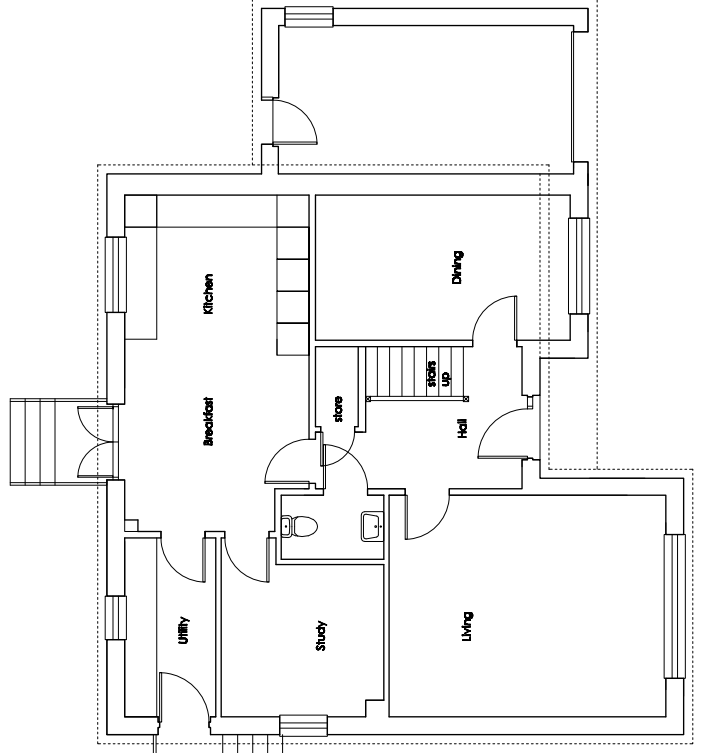


Front elevation - existing
1:100 scale
Scale in metres (1:100 scale)
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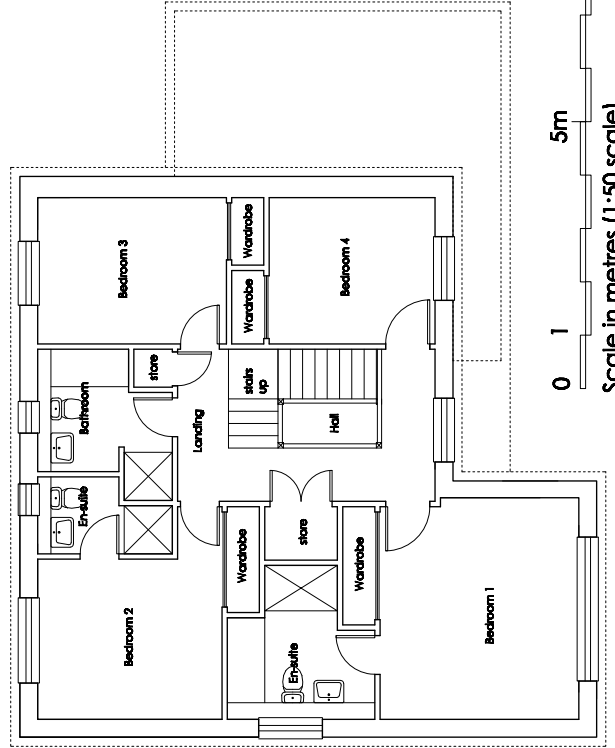
existing grey flat concrete roof line



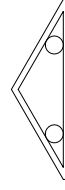
Side elevation - existing
1:50 scale



Ground floor plan - existing
1:50 scale



First floor plan - existing
1:50 scale



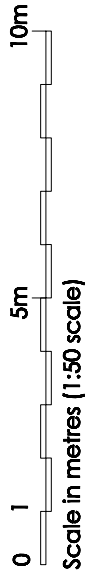
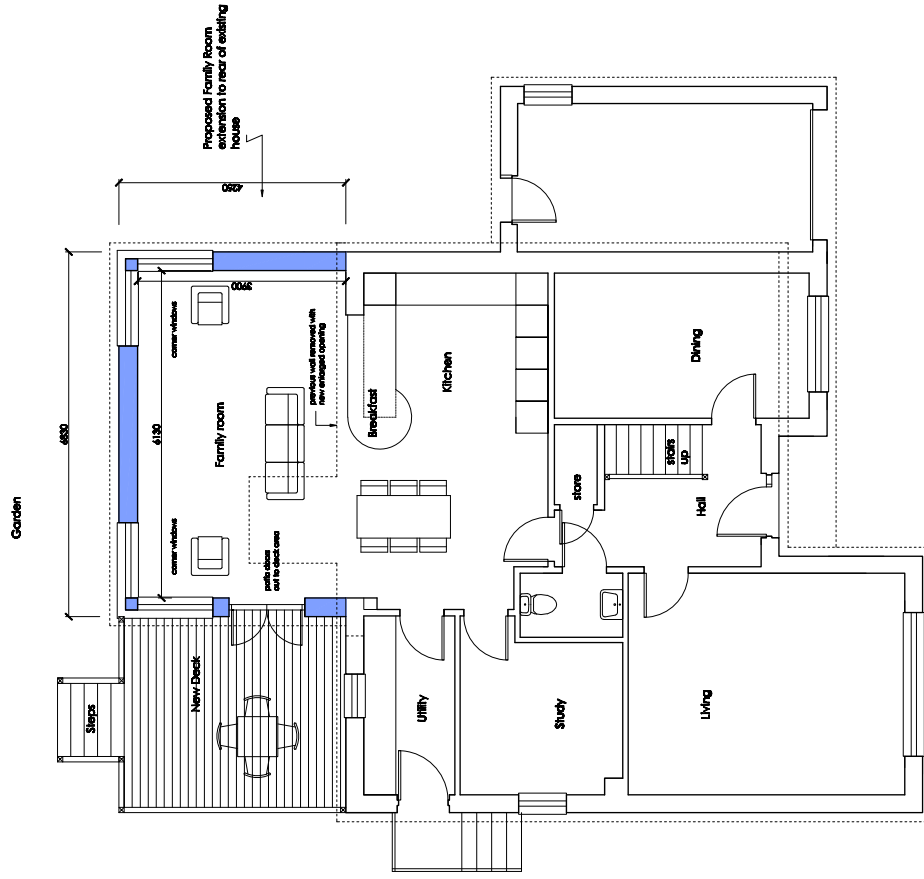
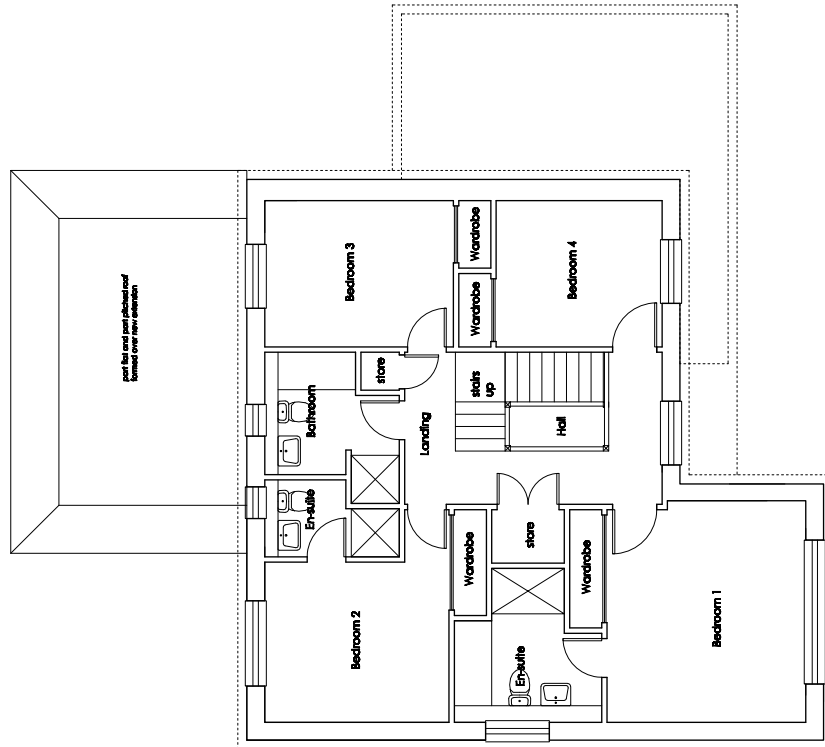
DS Beckwith
Architect

Forbes Park, Crispwell, Gloucestershire
AV19 1PH
01753 641122

Project:
46 David Douglas Ave, Stone

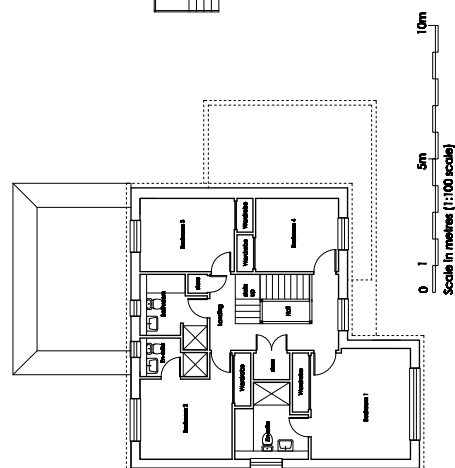
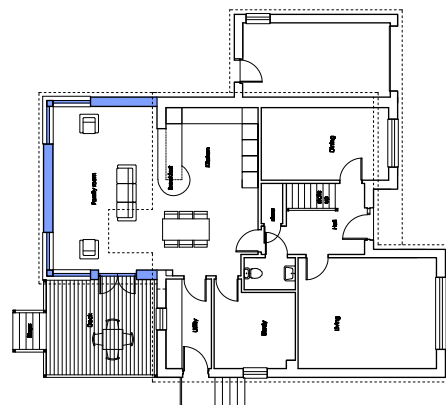
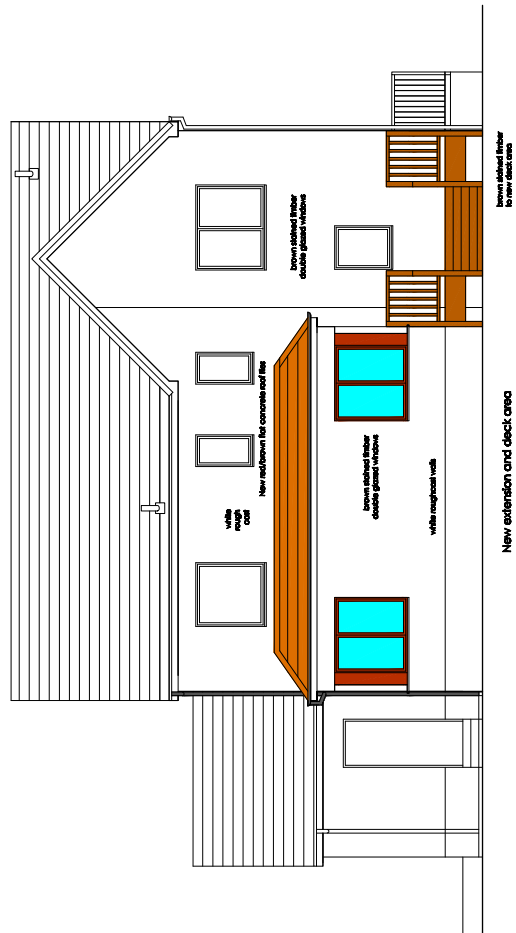
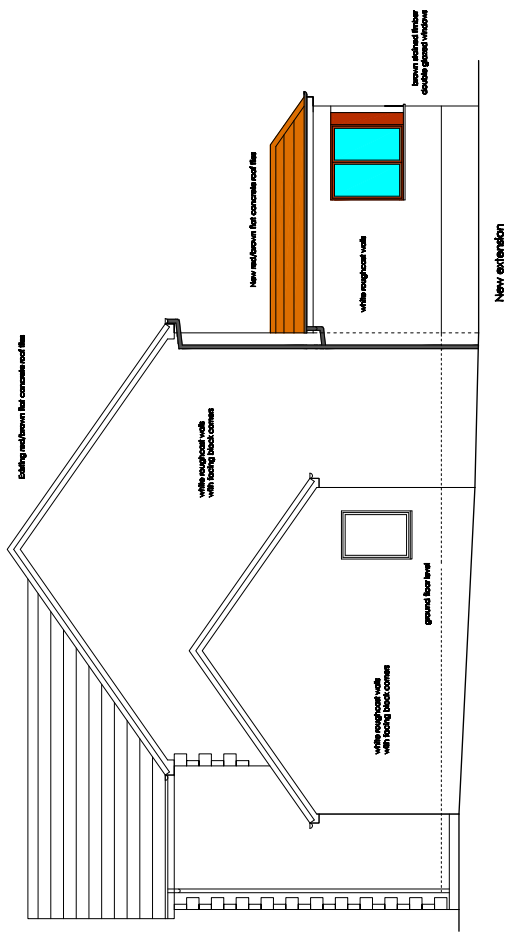
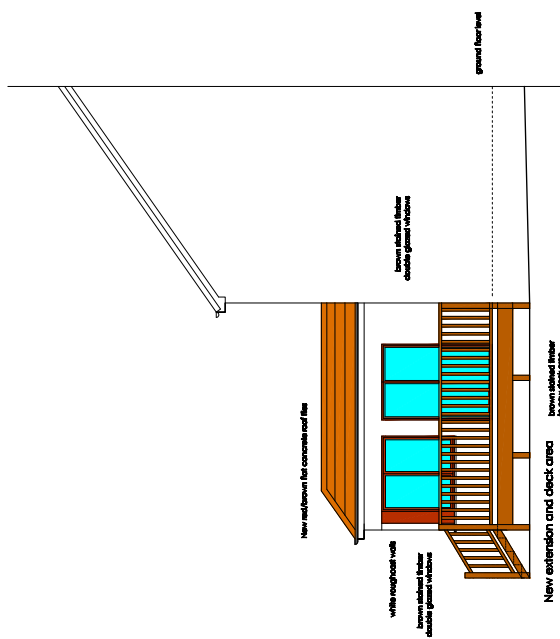
Drawn:
Survey plans and elevations -
Planning

Client:
2012.04.16
Project no:
0088/P/01



DS Beckett Architect
 Project: 46 David Douglas Ave. Stone
 Drawing: Proposed plan
 Date: 2012.04.08
 Project no: 0088/P/02

Project: 46 David Douglas Ave. Stone
 Drawing: Proposed plan
 Date: 2012.04.08
 Project no: 0088/P/02



TCP/11/16(225)
Planning Application 12/01413/FLL – Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone, PH2 6QQ

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENTS *(included in applicant's submission, see pages 24-28)*

PERTH AND KINROSS COUNCIL

Mr Neil Peterson
c/o D S Beckett - Architect
FAO Douglas Beckett
Frankies Park
Chapelhill
Glencarse
Perthshire
PH2 7NL

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 4th October 2012

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **12/01413/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 9th August 2012 for permission for **Alterations and extension to dwellinghouse 46 David Douglas Avenue Scone Perth PH2 6QQ** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The proposal, by way of its elevated position and close proximity to the boundary and neighbouring conservatory, would cause a significant and unacceptable amount of overlooking, to the detriment of the privacy and residential amenity of the neighbouring property at No.48. Approval would therefore be contrary to Policy 71 of the Perth Area Local Plan 1995 (Incorporating Alteration No.1 - Housing Land 2000), which seeks to retain and where possible improve residential amenity.
2. If approved, the proposed development would set a precedent for further developments of a similarly unsympathetic nature, which would undermine and weaken the long established policies of the Perth Area Local Plan 1995 (Incorporating Alteration No.1 - Housing Land 2000).

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

Notes

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page

Plan Reference

12/01413/1

12/01413/2

12/01413/3

12/01413/4

12/01413/5

REPORT OF HANDLING

DELEGATED REPORT

Ref No	12/01413/FLL
Ward No	N2- Strathmore

PROPOSAL: Alterations and extension to dwellinghouse

LOCATION: 46 David Douglas Avenue Scone Perth PH2 6QQ

APPLICANT: Mr Neil Peterson

RECOMMENDATION: REFUSE THE APPLICATION

SITE INSPECTION: 24 August 2012



OFFICERS REPORT:

46 David Douglas Avenue is a detached villa in a modern housing development in Scone.

This detailed application seeks planning permission to extend the property to the rear (Northwest) and form an area of raised timber decking.

The proposed extension is primarily flat roofed, with hipped roof edges. A set of corner windows is proposed on each rear corner along with a set of patio doors which leads out onto the proposed raised decking. The proposed extension measures 6.8m wide, 4.2m in projection and 3.9m in height. The proposed decking measures 3.1m wide, 4.2m in projection from the existing rear elevation of the house (not including the proposed steps) and, according to the proposed rear elevation, approximately 700mm in height. All proposed external finishing materials have been specified to sympathetically match those of the existing house in type, colour and texture. The design, scale and form of the proposals are considered to be acceptable on the rear elevation of the house.

However, the rear garden is enclosed by a timber fence and the topography of the application site falls down from the front of the property to the rear. Accordingly, the finished floor level of the property is raised circa 700mm above the rear garden and

the proposal follows the existing raised floor level through to the extension and decking. In assessing the impact of the proposal upon the residential amenity of the neighbouring properties consideration must be given to the context of the site, topography, boundary containment, existing built environment and proposed structure, windows/doors and decking.

Here there are two elements which cause concern in relation to privacy and residential amenity. I am content that the corner windows would not present any significant issues, as they would provide only oblique views from the extension. However, the patio doors and the raised timber decking are within close proximity to the neighbouring conservatory, which is also raised (no.48). The raised level of the proposal and the neighbouring conservatory would render the existing timber boundary fence relatively ineffective in terms of mitigating the conflict of privacy. Given the topography of the rear garden, existing boundary treatment and relative positions of proposed patio doors and raised decking and the neighbouring conservatory, the current proposal presents an unacceptable conflict of privacy as direct lines of sight would be created between opposing windows (at close proximity), which breaches minimum recommended window-to-window distances (BRE report on Site Layout for Daylight and Sunlight: A Guide to Good Practice).

These concerns have been highlighted to the applicant's agent, who has challenged the validity of the recommended window-to-window distances on the grounds of a Building Standards interpretation of the neighbour's conservatory not constituting a habitable room - suggesting that distances could be less because a conservatory is not a habitable room. It has been explained to the applicant's agent that, whilst the neighbouring conservatory is not an 'apartment' in terms of the Building Regulations, it is important to draw a distinction between the definition of a 'habitable room' (for energy efficiency purposes in the Building Regulations) and what Development Management consider being a habitable room (for the purposes of assessing conflict of privacy in the planning process).

Moreover, the neighbour's conservatory is an internal area of their house and, being substantially built of glazing, is even more susceptible to privacy issues than a formal 'apartment' as defined by the Building Regulations. It is therefore necessary to safeguard the privacy and residential amenity of the neighbour's property and I do not consider it appropriate, or necessary, to have a protracted debate on a Building Standards definition for the purposes of the assessment of this planning application.

The applicants agent has declined the opportunity to amend the submitted drawings (to implement the suggested changes of removing the proposed decking and patio doors from the proposal) and has requested that the application be determined based upon the original submission, with the intention of seeking a review of a refusal through the Local Review Body.

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

Whilst there are general policy provisions throughout the Approved Strategic Development Plan - TAYplan 2012, the primary development plan policy of specific relevance in this instance is Policy 71 of the Perth Area Local Plan 1995 (Incorporating Alteration No.1 - Housing Land 2000), which seeks to retain and where possible improve residential amenity and village character.

Based on the merits of this particular proposal, having carried out a site inspection and carefully assessed the submitted drawings, I retain serious concerns in relation

to the proposals having a significant adverse impact on the privacy and residential amenity of the neighbouring property.

Therefore, with the above considerations taken into account, I consider the proposal to be contrary to the aims and objectives of the above-mentioned local plan policy, the contents of which are listed below. I have taken account of other material considerations and I find none that would justify over-riding the adopted development plan and approving the application.

I therefore withhold my support of the proposal and recommend that the application be refused under delegated powers.

DEVELOPMENT PLAN

P_071 Perth Area Villages

Inset Maps 1 - 40 indicate village areas and small settlements where residential amenity and village character will be retained and, if possible, improved. Some scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the village. Generally encouragement will be given to:-

- Proposals which will improve the character and environment of the village.

OTHER POLICIES

None

SITE HISTORY

None

CONSULTATIONS/COMMENTS

None required

TARGET DATE: 9 October 2012

REPRESENTATIONS RECEIVED:

Number Received: Zero

Additional Statements Received:

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	None submitted.

Legal Agreement Required:

Summary of terms Not required

Direction by Scottish Ministers No

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

Reasons:-

- 1 The proposal, by way of its elevated position and close proximity to the boundary and neighbouring conservatory, would cause a significant and unacceptable amount of overlooking, to the detriment of the privacy and residential amenity of the neighbouring property at No.48. Approval would therefore be contrary to Policy 71 of the Perth Area Local Plan 1995 (Incorporating Alteration No.1 - Housing Land 2000), which seeks to retain and where possible improve residential amenity.
- 2 If approved, the proposed development would set a precedent for further developments of a similarly unsympathetic nature, which would undermine and weaken the long established policies of the Perth Area Local Plan 1995 (Incorporating Alteration No.1 - Housing Land 2000).

TCP/11/16(225)
Planning Application 12/01413/FLL – Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone, PH2 6QQ

REPRESENTATIONS

- Representation from Appointed Officer, dated 16 January 2013
- Agent's response to representation, dated 12 February 2013

CHX Planning Local Review Body - Generic Email Account

From: Keith Stirton
Sent: 16 January 2013 13:48
To: CHX Planning Local Review Body - Generic Email Account
Subject: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: TCP/11/16 (225)

Dear Sir/Madam

I write in response to your request for any further representations in relation to the review of the above planning application decision.

The only further comments that I have at this stage are to draw the Local Review Body's attention to the Overshadowing & **overlooking** section, Page 18 of Perth & Kinross Council's Placemaking Guide, which further seeks to safeguard the residential amenity of neighbouring properties and their private gardens. Whilst the delegated report of handling refers to the BRE guidelines, it does not refer to the Placemaking Guide which is formally approved Supplementary Planning Guidance and this is a material consideration in the determination of the review.

Kind regards

*Keith Stirton
 Technician – Planning & Regeneration
 Perth & Kinross Council
 The Environment Service
 Pullar House
 35 Kinnoull Street
 Perth
 PH1 5GD*

*Telephone (01738 475328
 Email KGStirton@pkc.gov.uk
 Website www.pkc.gov.uk
 Please don't print unless necessary*

CHX Planning Local Review Body - Generic Email Account

From: DS Beckett [ds.beckett@btconnect.com]
Sent: 12 February 2013 09:27
To: CHX Planning Local Review Body - Generic Email Account
Subject: RE: Alterations and extension to dwellinghouse at 46 David Douglas Avenue, Scone Ref: TCP/11/16 (225)

For the attention of Gillian A Taylor,

Madam,

Further to your email of 28th January 2013 in respect of the Local Review Body appeal I would wish to make the following submission in reply to the representation made by Mr Keith Stirton, Planning & Regeneration, The Environment Service, PKC.

I wish to make 2 points regarding the further representation:

1. Mr Stirton make reference to the PKC Placemaking Guide and states that this is formally approved supplementary Planning Guidance and is a material consideration in the determination of the review. Not being familiar with this guide I have (since being notified of the representation from Mr Stirton) been in protracted discussions with PKC Planning through email and phone calls to try and locate this Guide. It is not on the PKC website and the only internet reference that could be located was a report to the Enterprise and Infrastructure Committee on 13 June 2012 when a partial draft was approved by that committee to go out to consultation. My extended discussions with PKC Planning staff (for they had difficulty locating it too) and Mr Peter Marshall in particular, have confirmed that the draft Guide has still to go out for consultation, and is as yet not finalised. Given that this is the case, I submit that the Local Review Body should not accept the contention by Mr Stirton that the Placemaking Guide is formally approved supplementary Planning Guidance and that his statement is misleading.
2. Notwithstanding the above point, I would wish to draw the LRB's attention to the section on Overshadowing and Overlooking on page 18 of the draft guide which Mr Stirton alludes to. From the 4 points mentioned within that section, the two that would most likely apply to this application refer to the option to erect boundary screening to resolve potential overlooking issues. This seems a wholly sensible approach and one that has been employed within a photograph example that I have submitted of 2 neighbouring conservatories erected in close proximity but with screening erected between.

I would therefore suggest that the answer to the objection provided by Mr Stirton regarding the overlooking issue can be practically resolved to the benefit of all interested parties, and that the appeal be supported upon this basis with common sense prevailing.

Yours,

Douglas Beckett

