



# The Sub-division and Redevelopment of Residential Curtilages

Supplementary Planning Guidance

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## 1. INTRODUCTION

1.1 In recent years the growing restriction of available land supply for new housing development on both greenfield and brownfield sites in the City together with escalating house prices have led to increasing pressures for:

- the construction of houses and flats (together henceforth referred to as dwellings) within the garden ground of existing residential property (curtilage splitting) and
- the complete demolition and replacement of existing dwellings by new dwellings at higher density on the same curtilage or curtilages (redevelopment)

1.2 These pressures are most intense in the areas of the City with the highest house prices and with the lowest densities of residential development. It is here that developers perceive that the most opportunities exist for splitting of curtilages/redevelopment and the greatest returns can be made on investment. The Deeside settlements of Cults, Bielside and Milltimber have been a particular target of developers in this respect.

1.3 The problem of preparing guidelines to assist in the determination of planning applications that involve the sub-division or complete redevelopment of an existing residential curtilage(s) to create one or more new dwellings on the original site(s) is caused by the wide variety in the form and layout of residential properties in the city. These range from large dwellings sitting in grounds of one acre and upwards, to granite properties of the late 19th century, inter-war developments and post war housing estates. Within most of these general groups there are differing types of building, i.e. detached, semi-detached or terraced, each with different arrangements and provision of rear or side gardens and in some cases rear lanes to provide vehicular or pedestrian access. To attempt to prepare concise guidelines to cover for all of the eventualities arising from this wide cross section of curtilages is complex. Nevertheless, the fundamental character of many attractive residential areas formed by the pattern of development and the relationship between buildings and landscaped garden ground with mature trees is likely to be adversely

affected if the current trend of curtilage splitting and redevelopment continues indefinitely. With this in mind, the guidelines in this document are considered to be essential as part of the planning response to protect the appearance and residential amenity of the City as a whole.

1.4 The Council adopted its existing guidance for the Splitting of Residential Feus on 31 January 1991. Over the last 16 years this document has been extremely valuable in providing guidance in the determination of planning applications. However, it does not respond to the intensity and character of recent development pressures (eg the tendency towards redevelopment rather than curtilage splitting) or take into account the up to date policy context of the Finalised Local Plan or national planning policy guidance. The term feu is no longer a term that has any meaning in terms of Scottish property law. Hence the need for a comprehensive update and redrafting of the original document and the substitution of the term curtilage for that of feu.

1.5 It should be noted that, although specifically targeted at residential development on sites currently in residential use, some elements of this guidance are applicable to other types of development. For instance, non residential development within the curtilage of an existing dwelling and the construction of dwellings on greenfield and brownfield sites that are not currently in residential use.

## 2. RELEVANT PLANNING POLICY AND GUIDANCE

### Aberdeen and Aberdeenshire Structure Plan (NEST)

Policy 11 General Housing Considerations states that housing developments should:

- make a positive contribution to sustaining the community through sensitive siting, good quality design, and the use of appropriate densities,
- offer a choice of residential environments and house types,
- take account of the availability of infrastructure and services and
- direct housing preferentially to brownfield sites.

### Adopted City District-Wide Local Plan

The Adopted Local Plan is soon to be superseded by the Finalised Aberdeen Local Plan (which is currently at Inquiry).

**Policy R1 Residential Areas** states that proposals for residential development on residentially zoned sites will be favourably considered. However, this is subject to applications being satisfactory in terms of other material considerations namely the siting, design and external appearance of the buildings, the means of access thereto, the landscaping of the site and on the further considerations of amenity, public safety and drainage.

**Policy R3 Residential (Lower Deeside)** states that the splitting of sites in R3 zoned areas (the grounds of large houses on the periphery of the Lower Deeside settlements) will only be permissible where particular criteria are fully satisfied.

Policy GB1 Green Belt Areas does not permit new residential development of any sort in areas zoned as Green Belt unless directly related to, and essential for agriculture or forestry or replacement on a one-for-one basis of existing houses.

## The Finalised Aberdeen Local Plan

The Finalised Aberdeen Local Plan contains several policies that are relevant. Most notably:

**Policy 36: Residential Areas** reiterates Policy R1 of the adopted Local Plan and adds the need for community facilities to the material considerations.

**Policy 1: Design** states that to ensure high standards of design, new development should be designed with due consideration to its context and make a positive contribution to its setting.

**Policy 4: Protection of Urban Green Space** states that urban green space such as private gardens shall not be considered as brownfield sites for new development.

**Policy 6: Design and Amenity** states residential development should be designed:

- to ensure privacy
- to have public face to the street and a private face to an enclosed garden or court
- to provide all residents with access to sitting out areas (gardens, terraces or balconies)
- so that court car parking, if necessary, does not dominate the court with no more than 50 percent of any court taken up by parking spaces and access roads. In high density schemes underground or decked parking should be provided to achieve this.
- to make the most of opportunities offered by the site for views and sunlight

**Policy 8: Design and Policy Guidance** states that all development is expected to conform to the Council's published supplementary guidance. This guidance note is, therefore, part of this supplementary guidance. It has been prepared under the provision of paragraph 3.7.2 that allows for the update and consolidation of the specific guidance mentioned under Policy 8.

**Appendix 4** defines infill development as additional development situated between existing development. Infill development should not result in densities that are too high for that location.

## National Planning Policy Guidance

SPP1 (The Planning System) and SPP3 (Planning for Housing) state that the redevelopment of brownfield land within existing settlements should be encouraged. It should be noted, however, that (as Policy 4 and Appendix 4 of the Finalised Aberdeen Local Plan makes clear) the private gardens of existing houses shall not be regarded as brownfield sites. Neither does garden ground fall into the definition of greenfield sites in the Plan's Appendix.

Whilst national planning policy guidance in SPP3 (Planning for Housing) states that infill sites can often make a useful contribution to the supply of housing land. It also states that planning authorities should ensure that infill development respects the scale, form and density of its surroundings and enhances rather than detracts from the character and amenity of existing residential areas. It emphasises that care should be taken that the individual and cumulative effects of infill can be sustained by the social and economic infrastructure and do not lead to over-development. SPP3 states that these principles apply equally to development in the gardens or grounds of existing houses or on backland sites in urban, suburban or village locations

Planning Advice Note 67 (Housing Quality) provides guidance on planning considerations relevant to new residential development such as design, layout, materials, landscape, scale and mix and maintenance.

## 3. DEVELOPMENT GUIDELINES

3.2 It is considered that curtilage splitting involves development on urban green space (garden ground), whilst redevelopment of residential sites involves development on both urban green space (garden ground) and brownfield land (the footprint of existing dwellings). Neither the existing nor the evolving development plan, nor national planning guidance provides detailed guidance on this form of development. In these circumstances, and in the light of the increasing development pressures alluded to above, this supplementary guidance note is considered necessary to establish the criteria against which applications for redevelopment and curtilage splitting should be assessed. It should be noted that the guidance is more restrictive than the previous adopted feu splitting guideline so that this form of development will be acceptable in a more restricted set of circumstances than hitherto.

3.3 The following development guidelines have been informed by planning policies and national planning policy guidelines, the most directly relevant of which are outlined in the foregoing section. They build upon the foundation provided by previously adopted guidelines on feu splitting and on the wide experience of planning officers responsible for the assessment of applications for curtilage splits and redevelopment on a range of sites throughout the City. These guidelines are not intended to be cover all the planning considerations that are relevant (many of which are covered by existing planning policies and guidelines), or all potential curtilage split or redevelopment scenarios but they are targeted at providing more specific guidance on the most commonly encountered situations.

### 3.4 Privacy, residential amenity, daylight and sunlight

3.4.1 As a general principle new residential development should not borrow amenity from, or prejudice the development of, adjacent land or adversely affect existing development in terms of privacy, overlooking, daylighting or sunlighting.

3.4.2 The relationship of new residential development to existing dwellings is an important factor to be considered in assessing whether the privacy, amenity, sunlight and daylight of residents of both existing and proposed dwellings would be adversely affected.

### 3.4.3 Privacy

To ensure privacy, as a general guideline, there should be a minimum separation of 18 metres between the windows of existing and proposed habitable rooms (ie. the shortest line joining one window opening to any part of the other). Notwithstanding the foregoing there will be circumstances in which greater distances are appropriate – for instance where there are differences in ground levels or where higher buildings are proposed. Habitable rooms constitute all rooms designed for living, eating or sleeping eg. lounges, bedrooms and dining rooms/areas. This distance can be reduced if the angle between the windows of the existing and proposed residential properties is offset, if effective screening exists, or if screening is proposed that would not obstruct light (see Appendix 2), adversely affect residential amenity or be unacceptable for other planning reasons. Appendix 1 provides further guidance on the acceptable distances between windows to ensure adequate privacy based on the angle between them. This methodology will also be applied to assess the potential privacy impact of proposed extensions to existing residential property.

Devices such as angled or controlled aspect windows or louvres will not normally be a justification for a reduction in these privacy distances. In exceptional circumstances high level windows may be acceptable as long as they are not to habitable rooms or are secondary windows to habitable rooms (ie smaller windows provided in addition, and usually in a different wall, to a room's main window).

Any windows to habitable rooms should not look out directly over, or down into, areas used as private amenity space by residents of adjoining dwellings. In these circumstances the windows of non-habitable rooms should be fitted with obscure glass.

### 3.4.4 Amenity space

Residential development should have a public face to the street and a private face to an enclosed garden or court. All residents should have access to sitting out areas.

Rear gardens of dwellings up to two storeys in height should have an average length of at least 9 metres and dwellings of more than 2 storeys

should have garden lengths of at least 11 metres. Garden ground should be conveniently located immediately adjoining residential properties, be in a single block of a size and layout to be useable for sitting out and have an acceptable level of privacy and amenity. For instance, it will not be acceptable for private garden ground to be:

- at the street frontage of a property, close to and overlooked from the road
- located under the canopy of trees or in a location that is excessively shaded by vegetation or buildings or to directly overlooked by windows of habitable rooms of adjoining residential property
- rear gardens should be enclosed by solid fences or walls of at least 1.8 metres in height in order to ensure security and privacy.

In flatted developments in high density, central urban locations site constraints may mean that a balcony for each flat may be all that can be accommodated. Even in these situations, however, garden ground should be provided if at all possible (for instance by placing car parking areas under a deck, under the buildings or underground to free up space for garden ground or amenity areas)

Where it is necessary to accommodate car parking within a private court,

- (i) the parking must not dominate the space and no more than 50 percent of any court should be taken up by parking spaces or access roads and
- (ii) a detailed landscape plan will be required to be submitted along with any planning application
- (iii) car parking courts should be located to the rear of any proposed residential development and not between the street frontage of the development and the public road

### 3.4.5 Daylight

Where appropriate, the impact of new residential development on daylight for both existing and proposed residents will be informed both by professional judgement and by technical guidance. If not submitted with an application, applicants will be asked in appropriate circumstances to support their proposals with calculations and illustrations based on the BRE Information Paper on Site Layout Planning for Daylight<sup>1</sup>. Development proposals should satisfy the 25 degree approach illustrated in the diagram in Appendix 2. The 25 degree approach defines the point at which good interior daylighting can be achieved. It requires that (on the main front and rear elevations of a building) no obstruction measured in a vertical section perpendicular to the main face from a point two metres above ground level, subtends an angle more than 25 degrees to the horizontal. If the 25 degree approach is not met there may still remain the potential for adequate daylighting and a more detailed assessment must be made by calculating the vertical sky component using the methodology in the BRE Information Paper<sup>1</sup>. The appropriate methodology in this BRE Information Paper<sup>1</sup> will also be applied to assess the potential sunlight impacts of proposed extensions to existing residential property

### 3.4.6 Sunlight

New dwellings should be designed and orientated to make the most of the opportunities offered by the site for views and sunlight in order to provide a pleasant living environment and maximise passive solar gain. If not submitted with an application, applicants will be asked in appropriate circumstances to support their proposals with calculations and illustrations based on the BRE Information Papers on sunlight and solar gain<sup>2</sup>. This methodology will also be applied to assess the potential sunlight impacts of proposed extensions to existing residential property.

### 3.5 Design and Materials

3.5.1 In general the design and external finishes of any new dwellings should complement those of the surrounding area. High quality contemporary or modern design that enhances the appearance of the area, or that provides an attractive contrast to surrounding buildings, will be encouraged where appropriate.

3.5.2 In conservation areas there will be a presumption against the demolition of existing granite built dwellings. In circumstances in which it is proposed to demolish a granite faced dwelling, or in conservation areas where granite architecture predominates, there will be a requirement that all elevations of new development that would be prominently visible from the street (including gables) should be finished with natural granite and the main roof should be of complementary natural roofing materials (almost always natural slate). An exception may be made in circumstances where a particularly high quality modern design is proposed. However, particular care will be necessary to ensure that any new dwelling incorporates design elements and materials that respect the character of the area.

### 3.6 Density, pattern and scale of development

3.6.1 The construction of a new dwelling or dwellings within an established area will affect the overall density and pattern of development of the surrounding area, the acceptability of which will be dependent on the general form of development in the locality. Consideration must be given to the effect the dwelling or dwellings may have on the character of the area formed by the intricate relationship between buildings and their surrounding spaces created by gardens and other features. New dwellings must be designed to respect this relationship.

3.6.2 In terms of density, as a general guide, no more than a third (33 percent) of the total site area for each individual curtilage should be built upon. Densities of less than 33 percent will be required in areas of lower density housing. Densities higher than 33 percent will only be allowed when similar densities are characteristic of development in the surrounding residential area.

3.6.3 In most cases the predominant pattern of development in suburban residential areas is one of dwellings in a formal or semi-formal building line fronting onto a public road and having back gardens which provide private amenity space. In these areas the construction of dwellings in the rear gardens of existing dwellings, or the redevelopment of a site that results in dwellings that do not front onto a public road, constitutes a form of development that is alien to the established density, character and pattern of development. This form of development can also and erode the privacy and private amenity space available to existing residents. Furthermore, the use of rear lanes for shared pedestrian or vehicular access to dwellings in rear gardens is not considered acceptable in that it results in the creation of a pedestrian safety hazard. Finally, approval of “tandem” or backland development of this sort sets an undesirable precedent for future applications of a similar nature, which, if replicated, could result in the creation of a second building line behind existing dwellings and fundamentally erode the character and residential amenity of such areas. With this in mind, in all suburban areas characterised by formal or semi-formal building line fronting onto a public road and having back gardens which provide private amenity space there will be a general presumption against the construction of new dwellings in rear garden ground behind existing or proposed dwellings in circumstances where the new dwellings do not front onto a public road.

3.6.4 All new dwellings should front onto an existing publicly maintained roadway and should not project forward of the building line of the street (if there is one). The width of a curtilage may allow for a dwelling to be built alongside an existing dwelling or for an existing house or dwellings to be demolished to make way for a new development facing the street. The distance between proposed dwellings, and between proposed and existing dwellings, (ie between gable ends) should be similar to that predominating on the street.

3.6.5 Notwithstanding the foregoing, the following may be possible:

**(a)** to convert existing substantial sized traditional granite built outbuildings at the rear of existing properties to form dwellings (subject to other material considerations) where most of the accommodation of any individual dwelling is contained within the envelope of the original structure. The creation of new dwelling(s) within rear wings attached to existing houses will not be permitted.

**(b)** to accommodate a new dwelling in the rear garden of an existing dwelling on a corner site so that existing and proposed dwellings have a road frontage. In these instances, as well as complying with other planning criteria, both the existing and proposed dwellings will require private garden ground in compliance with guidelines in Section 3(a)(i) above. The amalgamation or joining together of the gardens of existing dwellings to accommodate a new dwelling or dwellings and associated garden ground will not be allowed in these circumstances.

**(c)** In the case of the redevelopment of an exceptionally large site (if the form of development is not alien to the general pattern, density and character of dwellings in the area), it may be possible for detached houses to be built which gain access from a new private driveway or a new road constructed to adoptable standard. Where a driveway (rather than a road to adoptable standard) is proposed this should serve a maximum of three or four houses

3.6.6 In all circumstances, the scale and massing of the any new dwelling(s) should complement the scale of the surrounding properties. Where new dwellings are proposed that front onto a street adjoining or between existing existing properties, a street elevation to a recognised scale will require to be submitted with any planning application to illustrate the relationship between the proposed dwelling(s) and existing adjoining properties. In these circumstances, it will not be acceptable for the ridges or wallheads of any new dwelling(s) to rise above the height of the ridges or wallheads on adjoining dwellings unless this results directly from a pre-existing difference in ground level (eg

a dwelling to be built at a higher level due to the slope of street).

3.6.7 It is important to remember that, in many instances, a residential property can be extended without the need for planning permission, which can be particularly relevant when considering the impact the proposal may have on neighbouring residents and the appearance of the surrounding built environment. Permitted development rights will be removed by planning condition where appropriate in these circumstances.

### **3.7 Trees and garden ground**

3.7.1 Trees make a valuable contribution to the landscape setting of urban areas and the loss of significant trees can be valid reason for refusal of planning permission. With this in mind there will be a presumption in favour of retaining semi-mature and mature trees either within the site or immediately adjacent to it regardless of whether they are protected by a Tree Preservation Order or sited in a Conservation Area. Where mature or semi-mature trees are located on a site a tree survey will require to be submitted with the planning application in accordance with guidance in British Standard 5837. Care should be taken to position new buildings to minimise potential disturbance to the root system or the tree canopy. If trees are to be lost, replacement planting will be required where possible to mitigate for the loss.

3.7.2 Similarly the loss of garden ground can be a material consideration that can lead to refusal of an application in circumstances where it is considered to make a significant contribution to the visual amenity of the neighbourhood. For example, the loss of mature or attractive garden areas that are prominent in views from adjoining streets.

### **3.8 Pedestrian/vehicular safety and car parking**

3.8.1 The provision of pedestrian and vehicular access to both the existing and the new dwelling is essential. In every case there should be safe and convenient pedestrian and vehicular access from the dwelling to the public road and pavement, avoiding contrived solutions. With the exception of private driveways it will not normally be acceptable for pedestrian access to be shared with vehicles eg where pedestrians have to walk on the carriageway of rear lanes or public roads to gain access to the development.

3.8.2 On-site parking to the appropriate level as stated in the adopted parking standards must be met both for the existing and the new dwelling(s).

3.8.3 Vehicular access from the public street must provide safe sightlines for pedestrians and the driver of the vehicle.

3.8.4 Driveways should be at least 5 metres in length (6 metres in front of garage doors).

## **4. PRECEDENT**

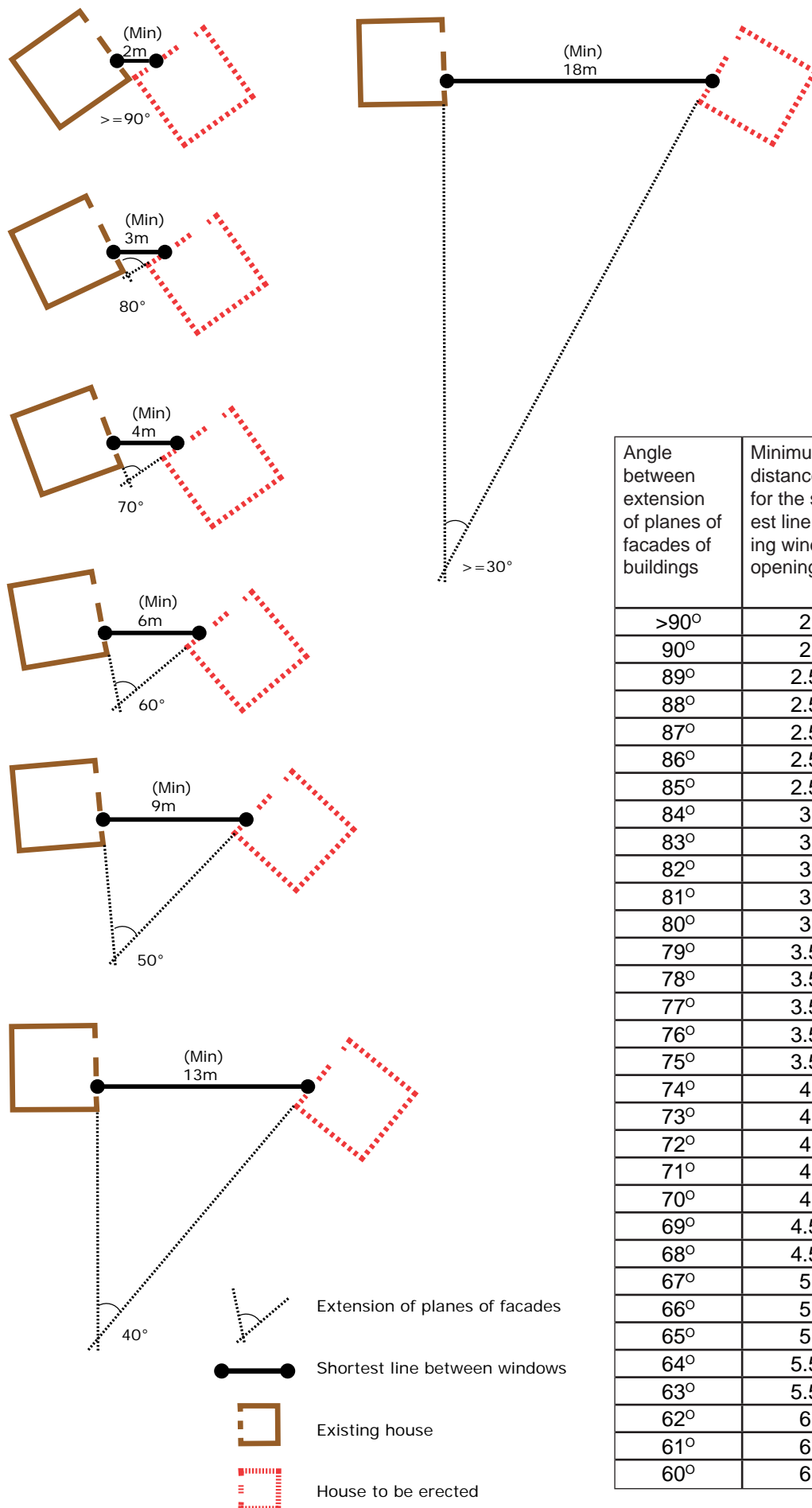
The need to avoid setting a precedent is a material consideration when determining planning applications. It is appropriate, when considering an application for a curtilage split or redevelopment, to consider whether the proposal may create a precedent whereby it would be difficult to resist similar developments, the cumulative effect of which would have a harmful effect on the character or amenity of the immediate area or the wider City.

## **5. CONCLUSION**

Since every application requires to be assessed on its own merits and site specific circumstances vary so much other issues may be relevant to individual planning applications. However the issues that have been identified above should always be considered when determining an application for the sub-division or redevelopment of existing residential curtilages.

APPENDIX 1 -

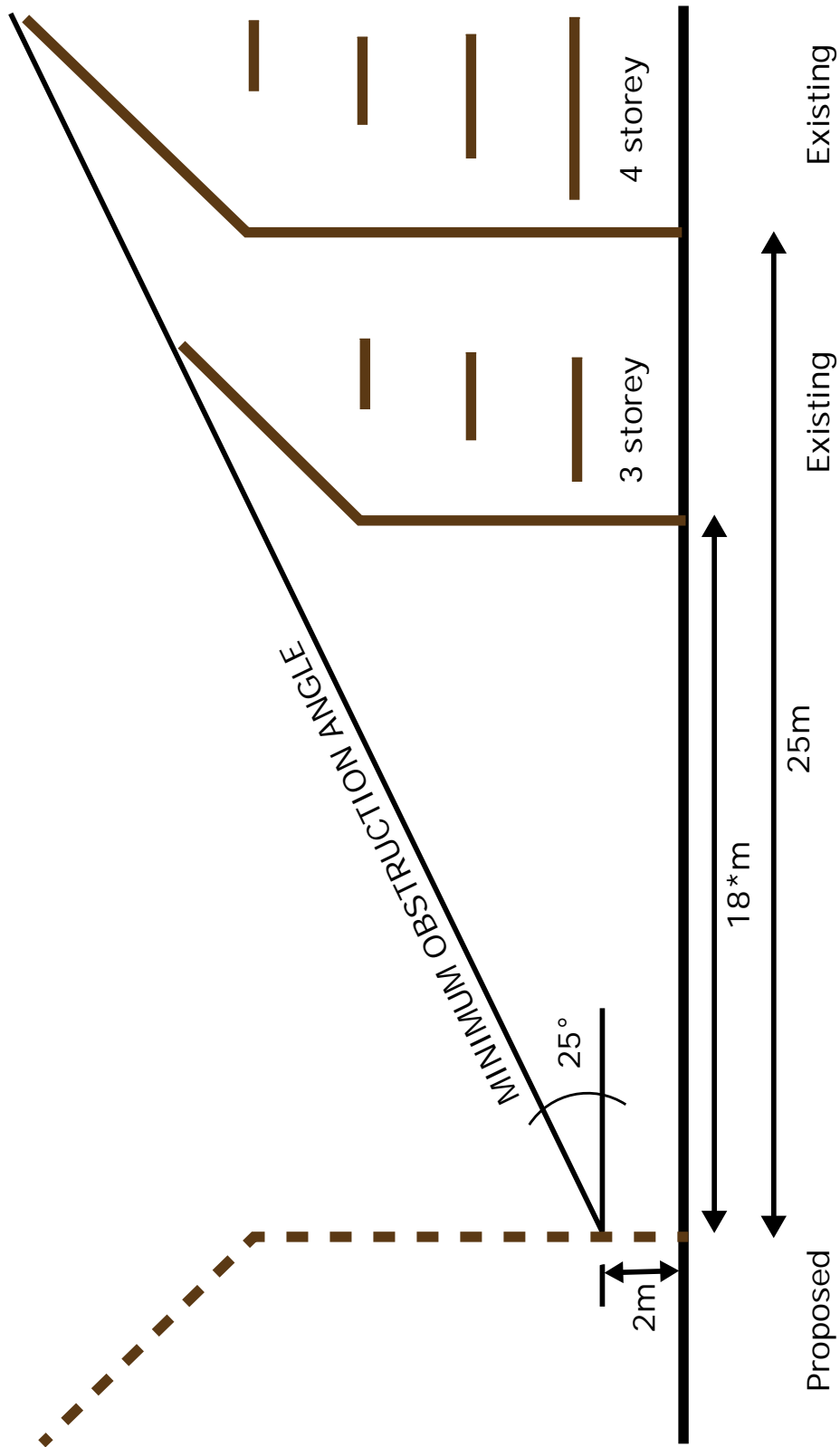
METHOD FOR CHECKING PRIVACY DISTANCES BETWEEN WINDOW OPENINGS



Angle between extension of planes of facades of buildings	Minimum distance (m) for the shortest line joining window openings	Angle between extension of planes of facades of buildings	Minimum distance (m) for the shortest line joining window openings
$>90^\circ$	2	$60^\circ$	6
$90^\circ$	2	$59^\circ$	6.5
$89^\circ$	2.5	$58^\circ$	7
$88^\circ$	2.5	$57^\circ$	7
$87^\circ$	2.5	$56^\circ$	7.5
$86^\circ$	2.5	$55^\circ$	7.5
$85^\circ$	2.5	$54^\circ$	8
$84^\circ$	3	$53^\circ$	8.5
$83^\circ$	3	$52^\circ$	8.5
$82^\circ$	3	$51^\circ$	9
$81^\circ$	3	$50^\circ$	9
$80^\circ$	3	$49^\circ$	9.5
$79^\circ$	3.5	$48^\circ$	10
$78^\circ$	3.5	$47^\circ$	10.5
$77^\circ$	3.5	$46^\circ$	11
$76^\circ$	3.5	$45^\circ$	11
$75^\circ$	3.5	$44^\circ$	11.5
$74^\circ$	4	$43^\circ$	12
$73^\circ$	4	$42^\circ$	12.5
$72^\circ$	4	$41^\circ$	13
$71^\circ$	4	$40^\circ$	13
$70^\circ$	4	$39^\circ$	13.5
$69^\circ$	4.5	$38^\circ$	14
$68^\circ$	4.5	$37^\circ$	14.5
$67^\circ$	5	$36^\circ$	15
$66^\circ$	5	$35^\circ$	15.5
$65^\circ$	5	$34^\circ$	16
$64^\circ$	5.5	$33^\circ$	16.5
$63^\circ$	5.5	$32^\circ$	17
$62^\circ$	6	$31^\circ$	17.5
$61^\circ$	6	$30^\circ$	18
$60^\circ$	6	$>30^\circ$	18

APPENDIX 2 -

THE 25 DEGREE APPROACH TO CALCULATING DAYLIGHT



\* It should be noted that 18 metres is the minimum separation distance for privacy but where development is proposed adjacent to taller buildings or on sloping sites this distance must be increased if adequate daylight is to be achieved to the ground floor of the proposed house.

## REFERENCES

1.

Littlefair PJ.  
"Site layout planning for daylight".  
Building Research Establishment Information  
Paper. March 1992.

2.

Littlefair PJ.  
"Site layout for sunlight and solar gain".  
Building Research Establishment Information  
Paper. March 1992

The above publications can be purchased from:

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