

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: Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

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

Planning authority's application reference number

Site address

Description of proposed development

Date of application Date of decision (if any)

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 checked="" type="checkbox"/> | <input 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:

N/A

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.

I am seeking a review of the decision to refuse retrospective planning application for our decking on grounds of height. The decking as built does not in our opinion reduce the privacy of our neighbours in 23 to 29 Lairburn Drive, as can be seen and demonstrated in the photographs we already overlook their bedroom, kitchens and gardens from our kitchen & patio windows, patio platform and the grass area behind our garage. It should be noted that the patio platform and steps to the grass area were already part of the house before we built the decking all we did was remove the slabs from the patio platform and laid decking boards, removed the concrete steps and replaced with decking steps. I have attached a photograph taken from the edge of the patio door platform and this demonstrates that at that level we are more intrusive than at the balustrade level.

Discussions took place with most of the neighbours before work started, and no concerns were voiced at these discussions. There were no concerns, voices/raised when the deck was being constructed. Since the deck was constructed and contact with the planning department none of the neighbours who have raised objections, have come to our door personally and raised concerns over height, privacy, lighting or even the noise of the dog playing with his ball on the deck.

There have been many very positive comments from a number of effected neighbours, commenting the deck gives everyone more privacy, and in fact one neighbours commented that the deck is "awesome".

I have enclosed various photographs from various points in the garden and in the house, to demonstrate that without the deck we are already overlooking our neighbours windows & gardens. I also took pictures from Lairburn Drive looking up towards our house. It's fair to say that the visual impact of the decking is negligible compared to the screening fence erected by the site developers. The top of the screening fence erected by the developers is the same level as our grass; therefore there was always going to be issues with any structure or even walking on the grass we would overlook into the neighbour's gardens.

As can be seen from the pictures taken from Lairburn Drive, the existing screening fence which was erected by the developer on top of the division wall, covers most of the decking. The only part that is above the screening fence is the balustrade which is of an open construction so does not impede on the neighbours in Lairburn Drive.

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.

Photographs:-
 View from Kitchen, Lounge, upstairs bedroom window's and Patio window.
 View at night with no lights.
 View at night with patio light on.
 View at night with decking lights on.
 View from garden bench behind garage.
 View from seating below lounge window.
 View's from Lairburn Drive.
 Views of patio platform.
 Trellis example.
 Drawings:-
 Copy of revised submitted planning application drawing. Reason for revision was that the measurement on the RHS of the drawing was incorrect at 6.0mts it is 3.3mts.
 Copy of section of drawing showing area proposed for option 1, 2 & 3.

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 8 JULY 2015

The Completed form should be returned to the Head of Corporate Administration, Scottish Borders Council, Council Headquarters, Newtown St. Boswells TD6 0SA.

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I have enclosed various photographs from various points in the garden and in the house, to demonstrate that without the deck we are already overlooking our neighbours windows & gardens. I also took pictures from Lairburn Drive looking up towards our house. It's fair to say that the visual impact of the decking is negligible compared to the screening fence erected by the site developers. The top of the screening fence erected by the developers is the same level as our grass; therefore there was always going to be issues with any structure or even walking on the grass we would overlook into the neighbour's gardens.

As can be seen from the pictures taken from Lairburn Drive, the existing screening fence which was erected by the developer on top of the division wall, covers most of the decking. The only part that is above the screening fence is the balustrade which is of an open construction so does not impose on the neighbours in Lairburn Drive. The screening fence offered us and our neighbours no privacy, whereas, the decking with the balustrade offers us all privacy. Perhaps the height of the screening fence should have been addressed when the houses were given planning permission or when the development was being built.

The reason the application was rejected is the height of the front part of the decking, as the garden is sloping, there is not a great deal I could do with it, to try and establish a flat area for the dogs but also children. We are trying to maximise the use of the available space for pleasure.

Planning report:-

In the planning report it states the following "An enquiry was received earlier this year regarding the construction of a sleeper wall / landscaping feature in the dwelling. This was not carried out". I had a conversation with Mr. Evans around my thoughts and would permission be required with regards to

building a retaining wall and then a fence/balustrade on top and the overall height and line would have been the same as the decking built. This option was not viable due to the amount and manual shifting of soil required to backfill. I sent Mr. Evans as requested an e-mail with photographs of the back garden, I never received an e-mail or message from Mr. Evans as to the planning thoughts on my development of the rear garden.

The Clovenfords Community Council objection/comments was based on the submitted comments from the 4 neighbours, none from the Community Council contacted me or visited my property. The Clovenfords Community Council objection/comments was in fact late and should not have been considered and even mentioned in the planning report. The late submission of additional comments and photographs by Mrs. Carpenter 27 Lairburn Drive should have been rejected by the planning officer. The planning officer in my opinion has been additionally swayed by these late and additional comments.

The objection of Mr. Clement 23 Lairburn Drive, is unfounded that they have no privacy when sitting their back garden, the position of their garden in relation to the decking and the height of their dividing fence from their next door neighbour which is 1.8mts high, makes it impossible for them to see the decking when sitting down, even if they are standing up in their garden they have to be on tip toes to at least try and see over the fence.

In the planning report Mr. Evans states "It is however noted that the illumination carried out emphasises the overbearing nature of the deck, and does indeed give prominence to its presence during the hours of darkness." This is not a valid planning objection and in reality should not have been mentioned, the photographs show that the lights are not making the decking overbearing or are too bright. The lights have never been left on after midnight, and if people were or are not happy with the lights why not say to us rather than make comments via a planning process.

In the section "Applicants supporting information" the following is written "Without wishing to be drawn further into this neighbour dispute, I would only comment here that the neighbours were perfectly entitled to raise their objections and perceptions of the impacts arising from the deck.". I have no issue with the process and the fact that neighbours can object, my issue is that they have even raised issue with one of our dogs making a noise, playing with a ball, how is that a planning objection, this and other comments such as lighting should have been dealt with in the same way that the impact of the value was dealt with, "I can attach no weight to such comments in the decision making process."

I would like to offer some options to come to achieve an amicable resolution;-

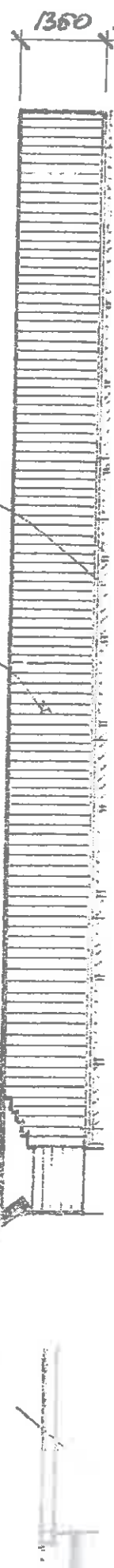
Option 1 - Fill in the balustrade panels to make a cross hatching pattern. Currently the spars are at 100mm centres, I propose to install additional spars at 50mm centres and also spars on the inside of the panels to make a lattice effect pattern - This will offer enhanced privacy for all concerned.

Option 2 - Erect 6 screening panels, open trellis style (see example picture attached) to a maximum height of 1.8 meters above the finished floor level of the decking starting at the steps leading down to the lower garden area, then working along the north west line of the decking - This will offer enhanced privacy for all concerned.

Option 3 - Remove a section of the decking as per the attached drawing at the North West part of the decking. The area to be adjusted is marked on the enclosed drawing in hatching. The distance is 0.9m from the edge of the decking and that will result in the remainder of the decking being at 0.5m to comply with regulations - This would resolve the decking height complying with regulations and privacy issues.

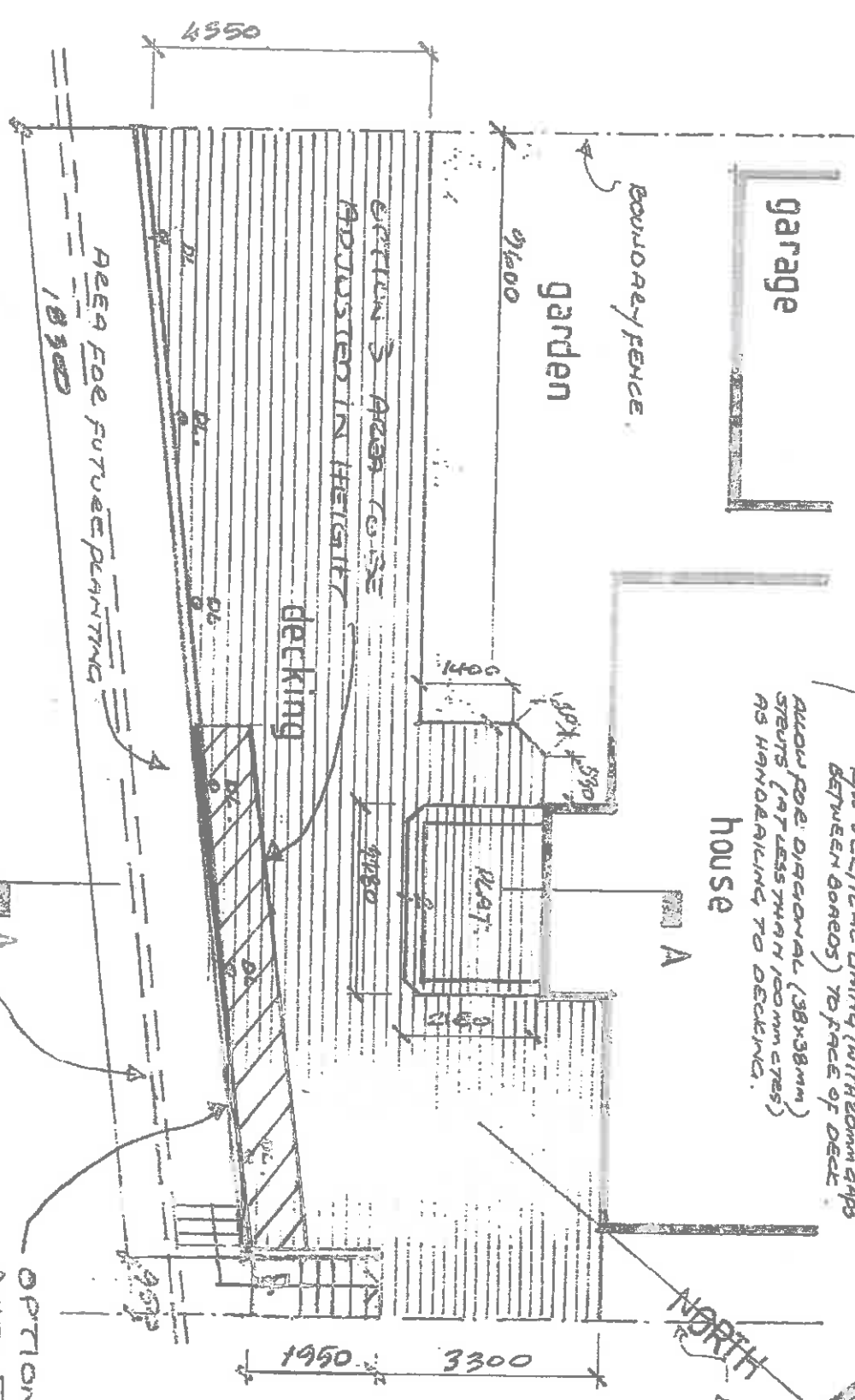
It is our intention to plant Clematis, Ivy & Virginia creepers in the "Future planting area" marked on the planning application drawing, which will cover the whole of the north elevation thus further screening and softening the structure to the residents in Lairburn Drive.

In summary, we feel that there is a compromise to be reached here within the 3 options that will satisfy the neighbours from 23 to 29 Lairburn Drive in terms of privacy and the feeling of being overlooked. The decking was erected by a local contractor, all materials used were sourced locally, ensuring we were using local sourced materials and labour was essential to us ensuring we are helping the local businesses & economy.



SECTION AA
1:100

NORTH ELEVATION 1:100



PLAN AT DECKING
1:100

ALLOW FOR 150 x 50mm TRANSLUCED
SPW VEGETICAL LINING (WITH 20mm GAPS
BETWEEN BOARDS) TO FACE OF DECK
ALLOW FOR DIAGONAL (38x38mm)
STUPTS (AT LEAST 100mm CTRS)
AS HANDRAILING TO DECKING.

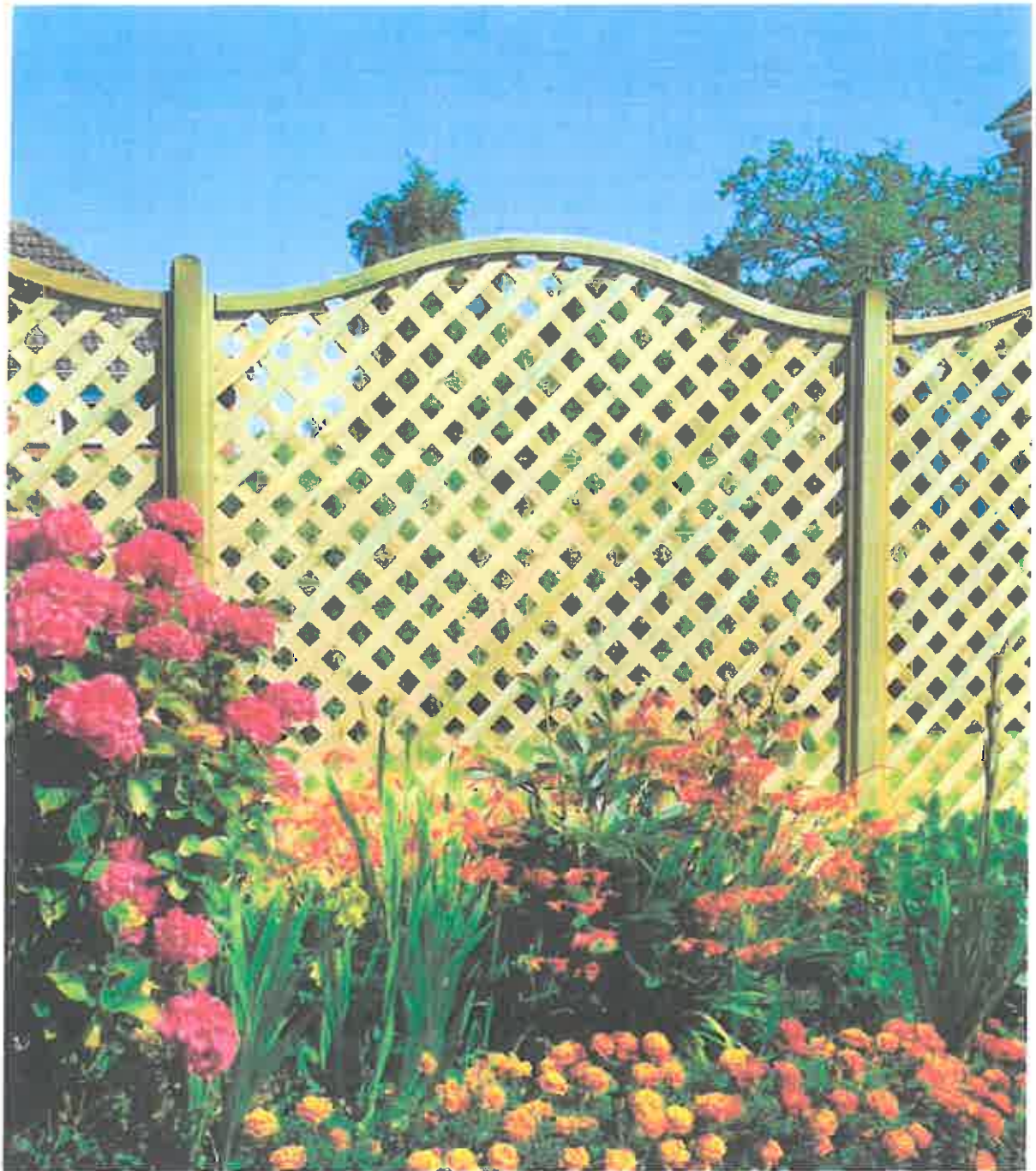
SPECIFICATION

ALLOW FOR 145 x 25mm
SPW DECKING ON 100mm
SPACERS AT 400mm CTRS.
FOR 150x50mm TH.
TIMBER POSTS CON-
CRETE TO TAKE 11
KIPS OVER. ALLOW
TO BE SURMOUNTED BY
MID SPAN. ALLOW FOR
TRANSLUCED SPW VEG.
(WITH 20mm GAPS BETWEEN
THE FACE OF DECK. ALL
VEGETICAL UPRIGHTS IN
CENTRES IMPLANTED WITH
38x38mm STUPTS (AT
100mm CTRS) AND 145 x
145 x 45mm TIMBER
ALLOW FOR STEPS (55mm
GOING) TO LOWER
LOWER LEVEL TO BE PER-
MITTED FOR FUTURE PLANTING.

D.L.: DECK LIGHTING
(SEE ILLUSTRATION)

OPTIONS 1 & 2 :-
AREA TO BE CROSS
HATCHED OR TIE BARS
BOUNDARY FENCE. ERECTED.

Example of trellis for option 2;-



View from front edge of patio window platform;-



View from edge of proposed realignment in option 3;-



View from seating under lounge window;-



View from lounge window;-



View from lounge window 2:-



View from Lounge window 3;-



View from Patio Doors;-



View from Kitchen window;-



View from Kitchen window 2;-



View from Lairburn Drive;-



View from opposite side of Lairburn Drive;-



View from back edge of 23 Lairburn Drive garden in service alley;-



View from start of service alley on Lairburn Drive;-



View at approx 11.00pm in May from service alley at Lairburn Drive no lights;-



View at approx 11.00pm in May from service alley at Lairburn Drive patio door light;-



View at approx 11.00pm in May from service alley at Lairburn Drive decking lights;-



View from patio platform;-



View from upstairs bedroom to LHS;-



View from upstairs bedroom RHS;-



View of garden before deck showing the patio platform to RHS;-



View of patio platform;-



View of patio platform;-



View from patio platform;-



View from rear of garage;-

