

EAST RENFREWSHIRE COUNCIL

LOCAL REVIEW BODY

10 June 2015

Report by Deputy Chief Executive

REVIEW OF CASE - REVIEW/2015/03

ENLARGEMENT OF PRIVATE GARDEN AT SIDE WITH
ERECTION OF FENCING (IN RETROSPECT)
AT 9 PRIORWOOD ROAD, NEWTON MEARNES

PURPOSE OF REPORT

1. The purpose of the report is to present the information currently available to allow a review of the decision taken by officers, in terms of the Scheme of Delegation made in terms of Section 43A of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 in respect of the application detailed below.

DETAILS OF APPLICATION

2. Application type: Full Planning Permission (Ref No:- 2014/0725/TP).
- Applicant: Mr and Mrs Knox.
- Proposal: Enlargement of private garden at side with erection of fencing (in retrospect)
- Location: 9 Priorwood Road, Newton Mearns.
- Council Area/Ward: Neilston, Newton Mearns North and Uplawmoor (Ward 1).

REASON FOR REQUESTING REVIEW

3. The applicants has requested a review on the grounds that the Council's appointed officer refused the application.

RECOMMENDATIONS

4. The Local Review Body is asked to:-
- (a) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
- (i) it proceeds to determine whether the decision taken in respect of the application under review should be upheld, reversed or varied; and
- (ii) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed.

- (b) In the event that further procedure is required to allow it to determine the review, consider:-
 - (i) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided; and/or;
 - (ii) what procedure or combination of procedures are to be followed in determining the review.

BACKGROUND

5. At the meeting of the Council on 29 April 2009, consideration was given to a report by the Director of Environment seeking the adoption of a new Scheme of Delegation in terms of the new Section 43A of the Town and Country Planning (Scotland) Act 1997, subject to approval of the scheme by Scottish Ministers.

6. The report provided details of the new hierarchy of developments that took effect from 6 April 2009 explaining that the Scheme of Delegation related to those applications within the "local development" category as set out in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, but would in future be determined by an "appointed officer". In the Council's case this would be either the Director of Environment or the Head of Roads, Planning and Transportation Service now designated the Head of Environment (Planning, Property and Regeneration).

7. The report highlighted that historically appeals against planning decisions were dealt with by Scottish Ministers. However, following the introduction of the new planning provisions which came into effect on 3 August 2009 all appeals against decisions made in respect of local developments under delegated powers would be heard by a Local Review Body. The Local Review Body would also deal with cases where the appointed officer had failed to determine an application within two months from the date it was lodged.

NOTICE OF REVIEW – STATEMENT OF REASONS FOR REQUIRING THE REVIEW

8. The applicants in submitting the review have stated the reasons for requiring the review of the determination of his application. A copy of the applicants' Notice of Review and Statement of Reasons is attached as Appendix 5.

9. The applicants are entitled to state a preference for the procedure (or combination of procedures) to be followed by the Local Review Body in the determination of the review and have indicated that their stated preferences are further written submissions and one or more hearing sessions.

10. The Local Review Body is not bound to accede to the applicants' request as to how it will determine the review and will itself decide what procedure will be used in this regard.

INFORMATION AVAILABLE TO ALLOW REVIEW OF APPLICATION

11. Section 43B of the Planning etc (Scotland) Act 2006 restricts the ability of parties to introduce new material at the review stage. The Local Review Body is advised that the focus of the review should, therefore, be on the material which was before the officer who dealt with the application under the Scheme of Delegation.

12. However, the applicants have submitted new information which was not available to the appointed officer at the time the determination of the application was made. The new information relates to their son's medical condition.

13. Members are advised that Section 43B of The Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 states that:-

“43B Matters which may be raised in a review under section 43A(8)

- (1) In a review under section 43A(8), a party to the proceedings is not to raise any matter which was not before the appointed person at the time the determination reviewed was made unless that party can demonstrate—
 - (a) that the matter could not have been raised before that time, or
 - (b) that its not being raised before that time was a consequence of exceptional circumstances.
- (2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—
 - (a) the provisions of the development plan, or
 - (b) any other material consideration.”

14. The applicants have been given an opportunity to explain why the information was not made available to the appointed officer at the time the application was determined. In reply, they have explained that the new information could not have made available prior to the decision being made as their son's medical condition was only confirmed after the decision was made.

15. The Local Review Body must decide whether the new information should be considered as part of the review. In the event that the Local Review Body decides that the new information should be considered as part of the review, it is recommended, in the interests of equality of opportunity to all parties that the appointed officer and those interested parties who have submitted representations be given the opportunity to comment on the new information.

16. Members should note that the new information has been excluded from the applicants' 'Notice of Review' form.

17. The information detailed below is appended to this report to assist the Local Review Body in carrying out the review of the decision taken by the appointed officer:-

- (a) Application for planning permission – Appendix 1 (Pages);
- (b) Copies of objections/representations – Appendix 2 (Pages);
- (b) Report of Handling by the planning officer under the Scheme of Delegation - Appendix 3 (Pages);
- (c) Decision notice and reasons for refusal - Appendix 4 (Pages); and
- (d) A copy of the applicants' Notice of Review and Statement of Reasons - Appendix 5 (Pages).

18. The applicant has also submitted the drawings listed below (available for inspection within the Planning Division of the Environment Department prior to the meeting and for reference at the meeting) and these are attached as Appendix 6 (Pages):

- (a) Refused - Location plan 1; and
- (b) Refused – Block plan 1 as proposed.

19. The Local Review Body is advised that initial consultation responses and representations received if any, relating to the application will be listed in the planning officer's Report of Handling.

20. All the documents referred to in this report can be viewed online on the Council's website at www.eastrenfrewshire.gov.uk with the exception of any representations that have been made to the application.

RECOMMENDATIONS

21. The Local Review Body is asked to:-

- (a) consider whether it has sufficient information to allow it to proceed to determine the review without further procedure and, if so, that:-
 - (i) it proceeds to determine whether the decisions taken in respect of the application under review should be upheld, reversed or varied; and
 - (ii) in the event that the decision is reversed or varied, the reasons and the detailed conditions to be attached to the decision letter are agreed.
- (b) In the event that further procedure is required to allow it to determine the review, consider:-
 - (i) what further information is required, which parties are to be asked to provide the information and the date by which this is to be provided; and/or;
 - (ii) what procedure or combination of procedures are to be followed in determining the review.

Report Author:

Director - Caroline Innes, Deputy Chief Executive

Paul O'Neil, Committee Services Officer
e-mail: paul.o'neil@eastrenfrewshire.gov.uk
Tel: 0141 577 3011

Date:- May 2015

KEY WORDS:

A report presenting information to allow the Local Review Body to review the decision taken by the appointed officer to refuse the application for planning permission in terms of the scheme of delegation.

Key Words:- Local Review Body, Notice of Review, Statement, Reasons.

**APPLICATION
FOR
PLANNING PERMISSION**



NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

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
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. However, please note that the Local Review Body is not bound to accede to your request(s) and will decide what procedure will be used to determine your review.

- 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:

1: [REDACTED]

2: COUNCIL DECISION DOES NOT AGREE WITH WRITTEN PROPOSAL DEVELOPMENT PLAN OR APPLICATION - CLARIFY AND AGREE

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.

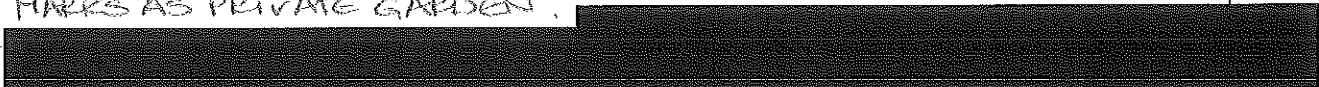
Statement

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.

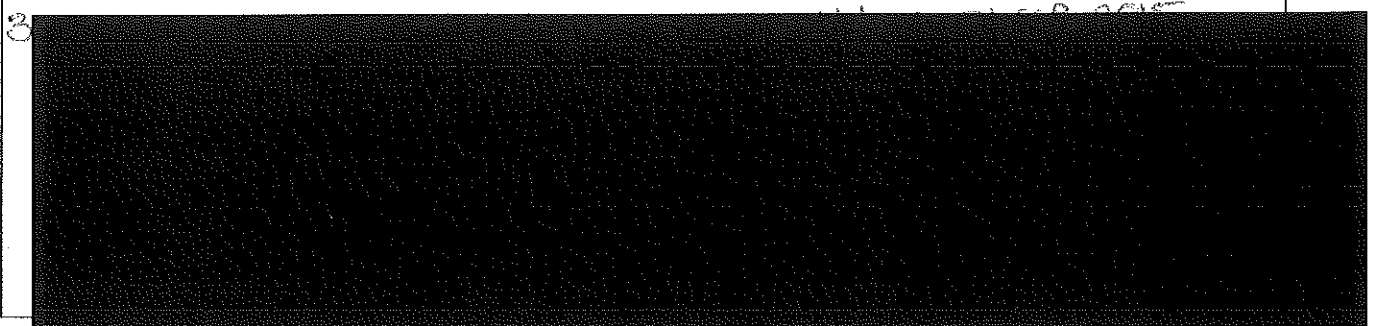
If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

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.

1. REFUSAL STATES APPLICATION IS CONTRARY TO POLICY DM1.
- THE REQUEST TO REMOVE TREES & HEDGING IN 2011 SHOULD NOT HAVE BEEN GRANTED THEN IF CONCERN RE: CHARACTER & AMENITY.
- WOULD LIKE OPPORTUNITY TO DISCUSS OPTIONS - POTENTIAL TO PLANT HEDGING/BUSHES TO SOFTEN FENCE APPEARANCE
- FENCE IS SIMILAR IN APPEARANCE TO OTHERS IN PRIOR WOODS.
- NEIGHBOURS HAVE ADVISED APPEALING. (NOT DISCUSSED WITH ALL, ONLY THOSE WHO HAVE APPROACHED US)
- NOWHERE IN TITLE DEEDS OR ERC DOCUMENTS AVAILABLE ONLINE IS THIS AREA MARKED AS OPEN AMENITY SPACE. TITLE DEEDS SHOW OWNERSHIP OF AREA WITH HOUSE; DEVELOPMENT PLAN MARKS AS PRIVATE GARDEN.



2. REFUSAL STATES APPLICATION IS CONTRARY TO POLICY D.1 OF PROPOSED PLAN
- AS ABOVE POINTS.



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.

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. 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:

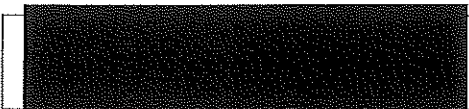
- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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

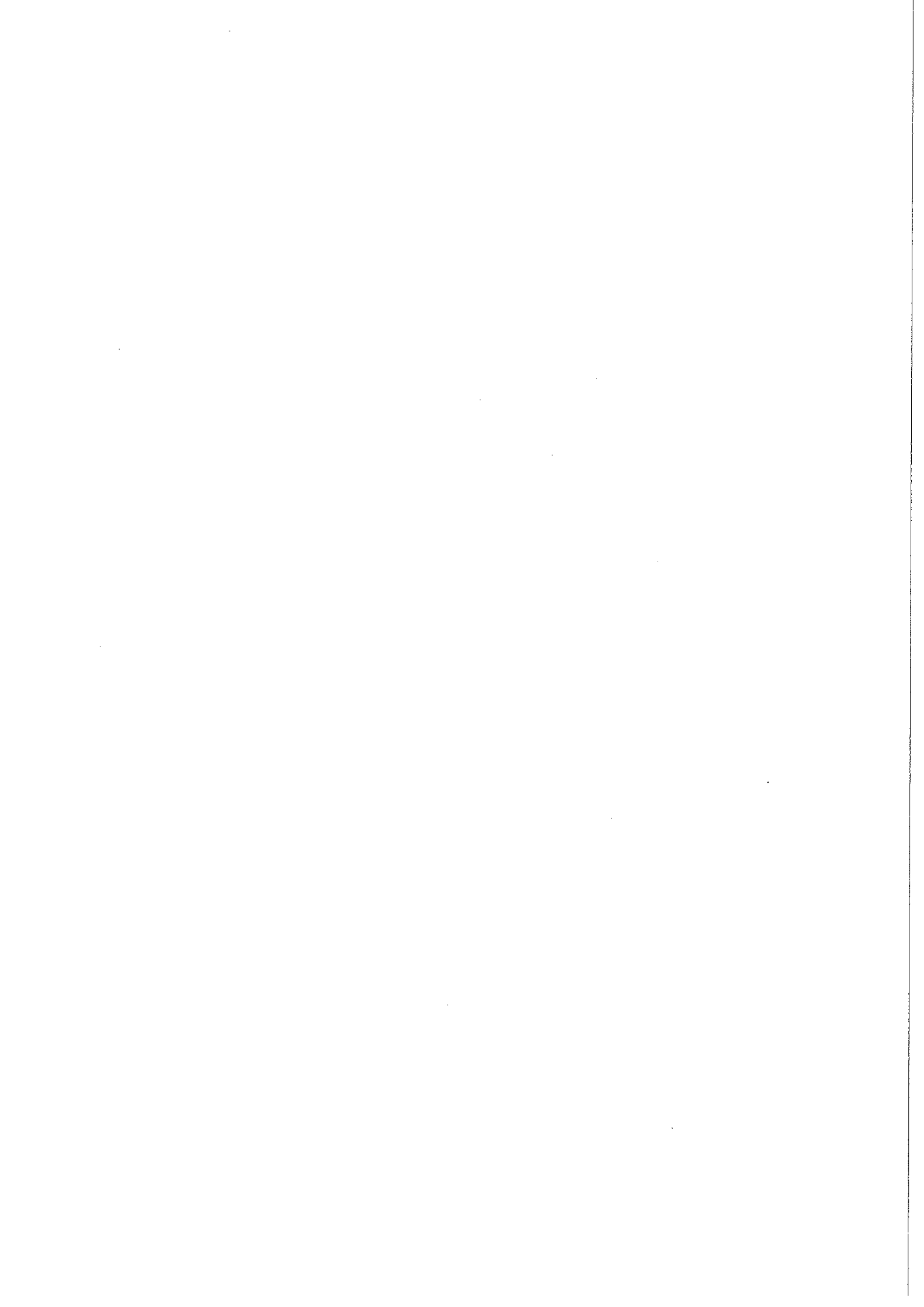


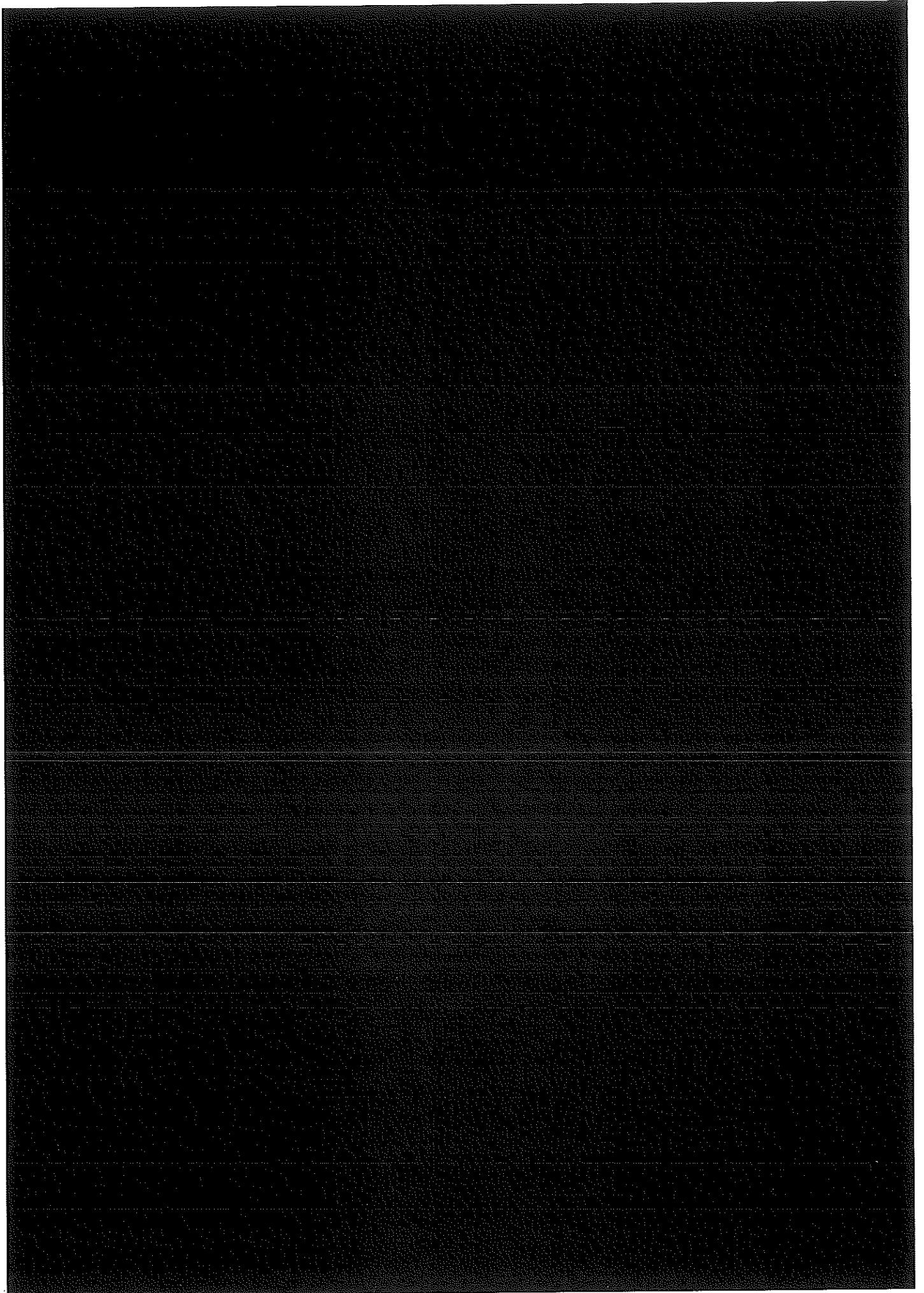
Date

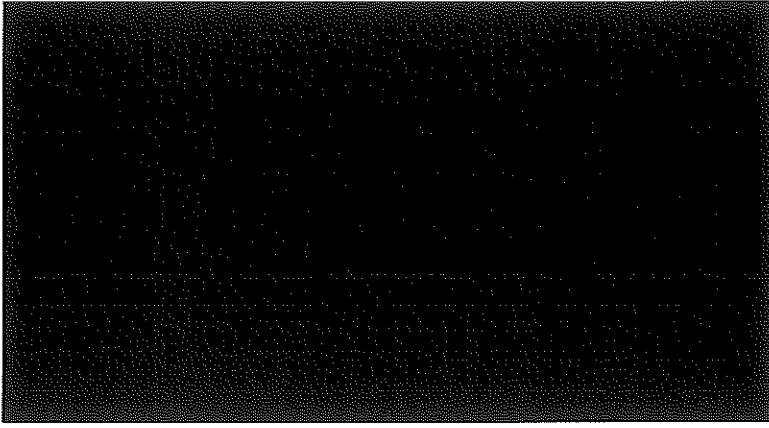
Data Protection Act 1998

East Renfrewshire Council is the Data Controller for the purposes of the Data Protection Act 1998. Please note that the information provided with this application will appear in the public register of applications and will also be published on the Council's website. Personal details such as signatures, personal phone numbers and personal email addresses will not be published on-line. If you wish any further personal information to be excluded from publication, please request this in writing and the Council will consider your request.

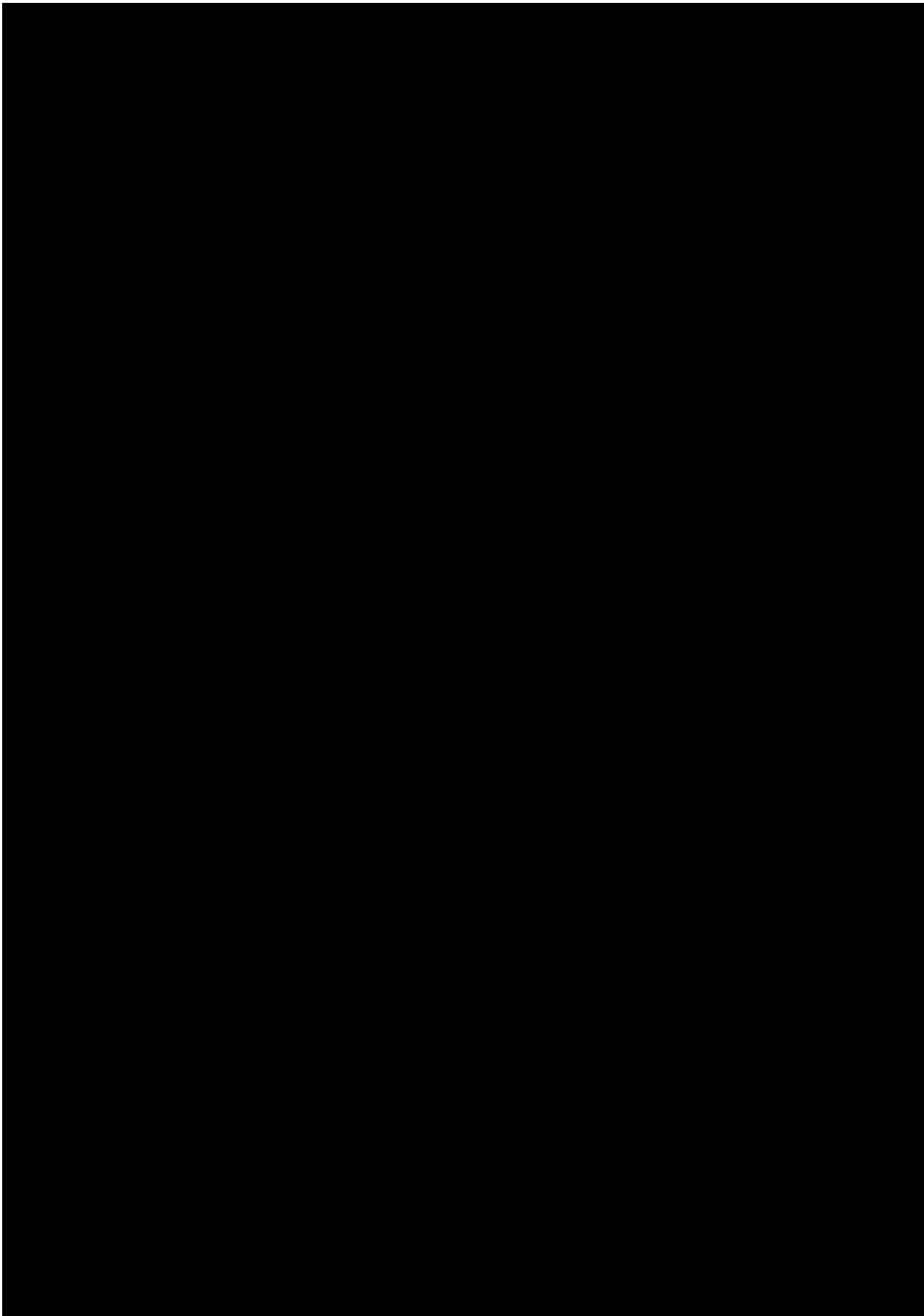
Your completed notice of review should now be returned to: East Renfrewshire Council, Head of Environment (Planning, Property and Regeneration), 2 Spiersbridge Way, Spiersbridge Business Park, Thornliebank, East Renfrewshire G46 8NG. Alternatively, you can e-mail your notice of review to planning@eastrenfrewshire.gov.uk







COPIES OF OBJECTIONS/REPRESENTATIONS





[Redacted]

[Redacted]

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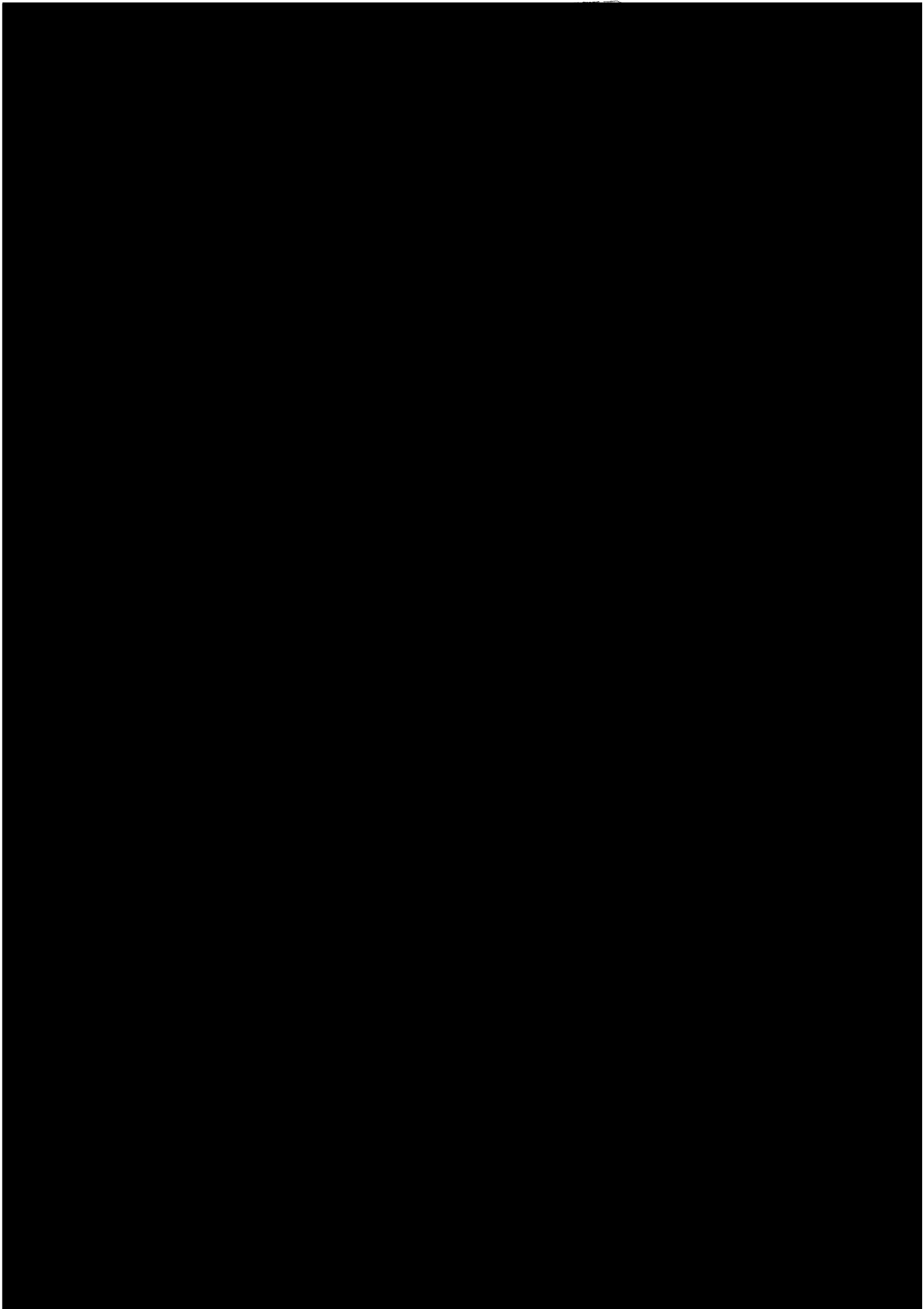
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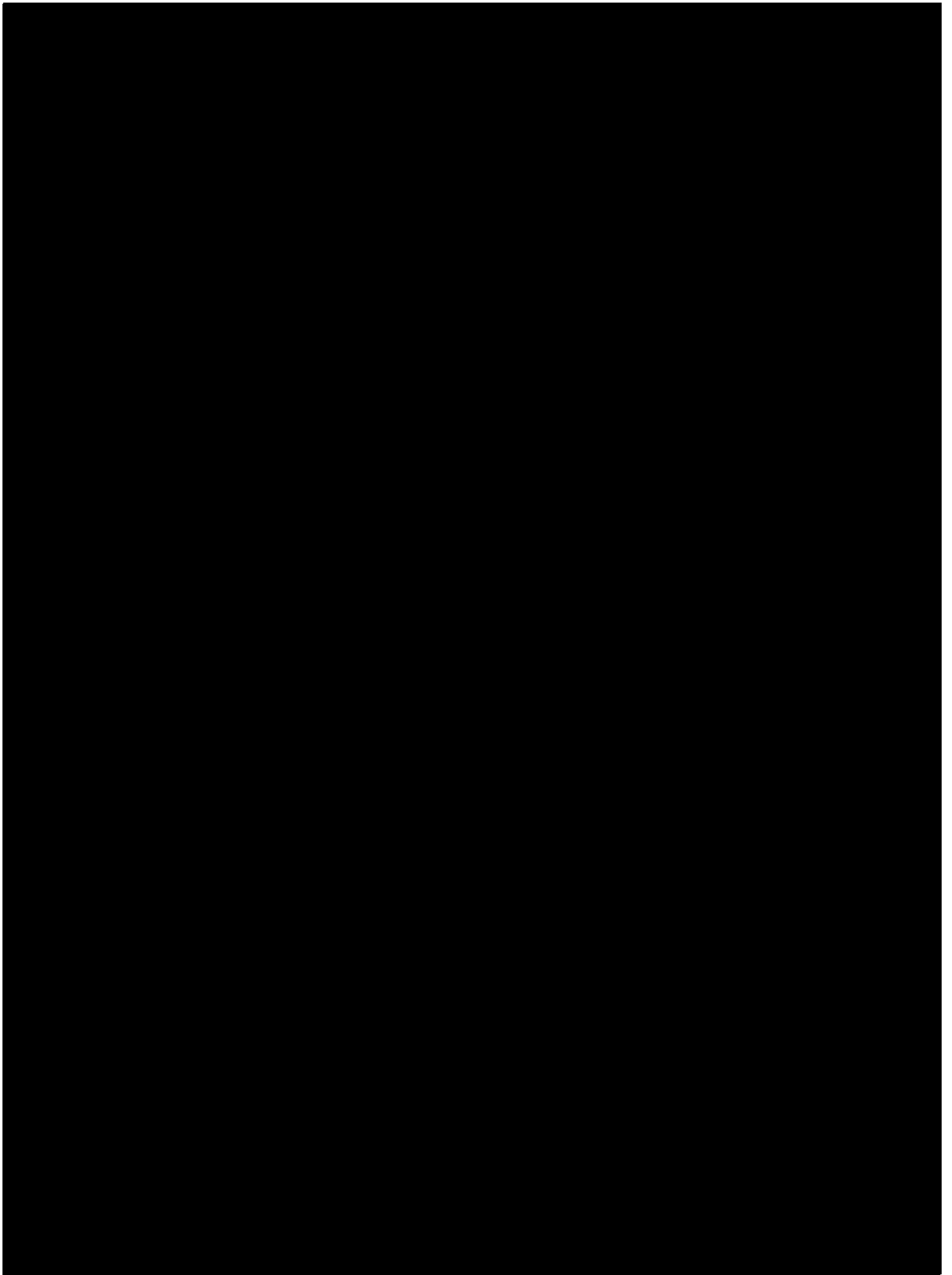
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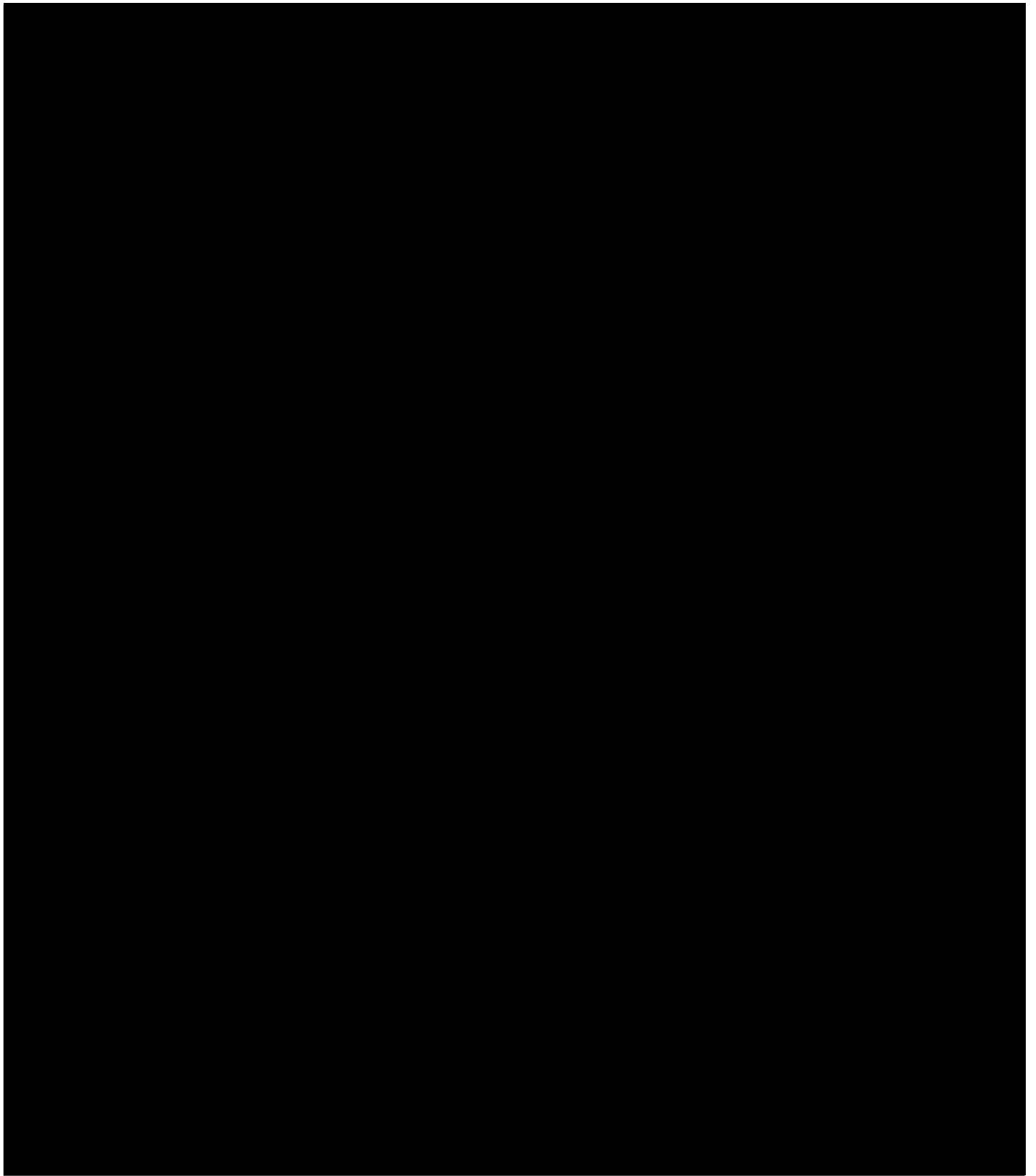
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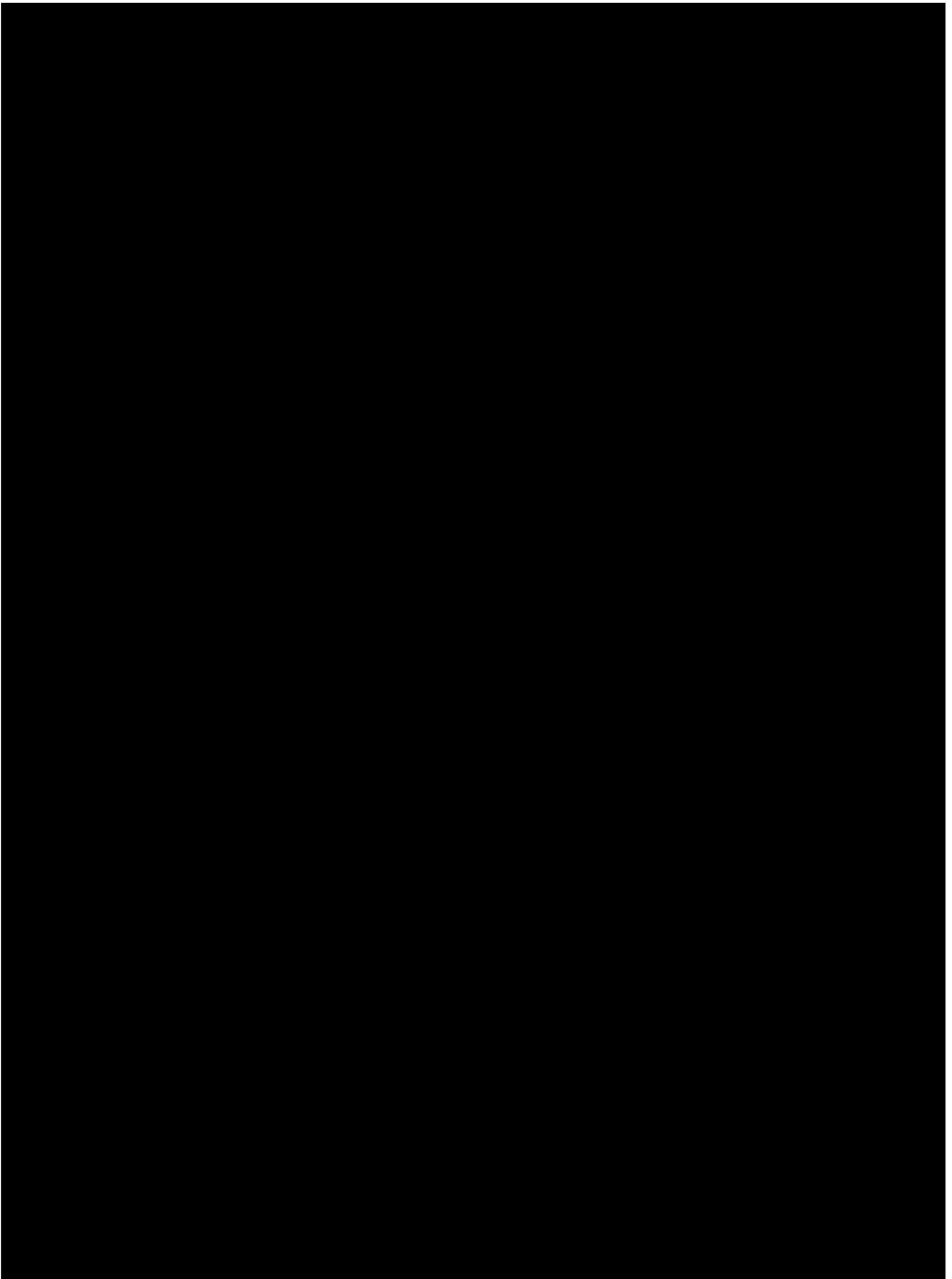
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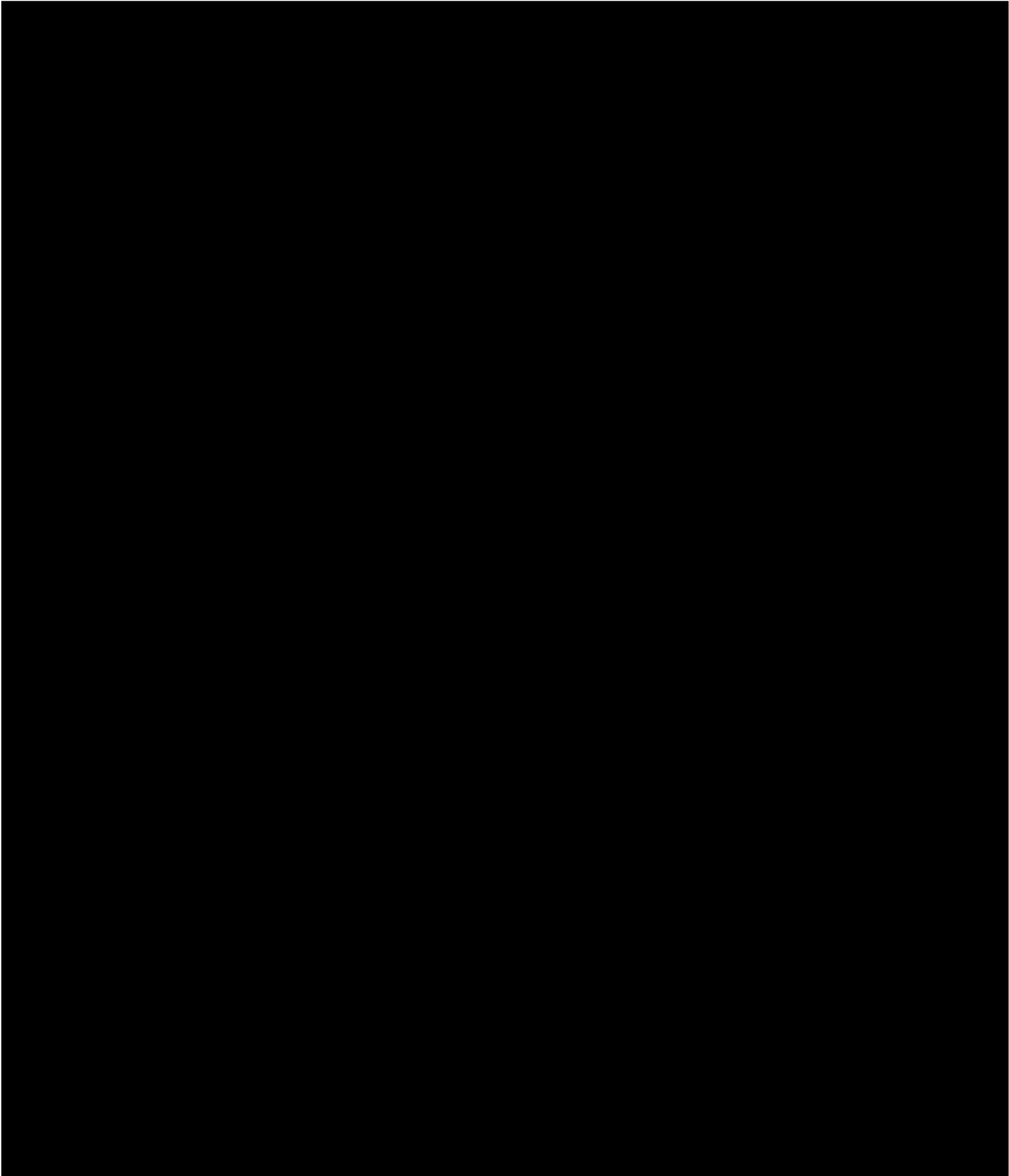
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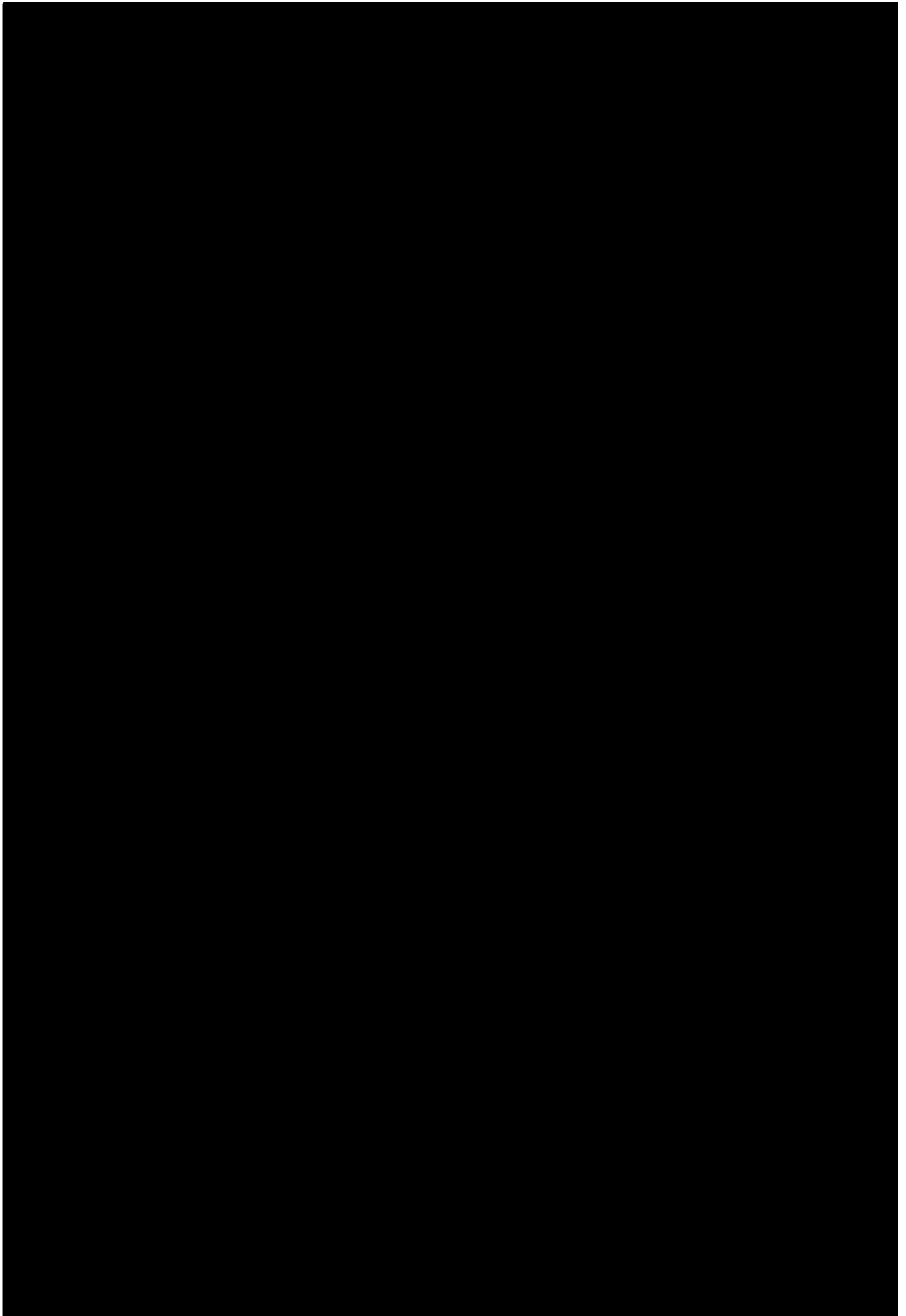


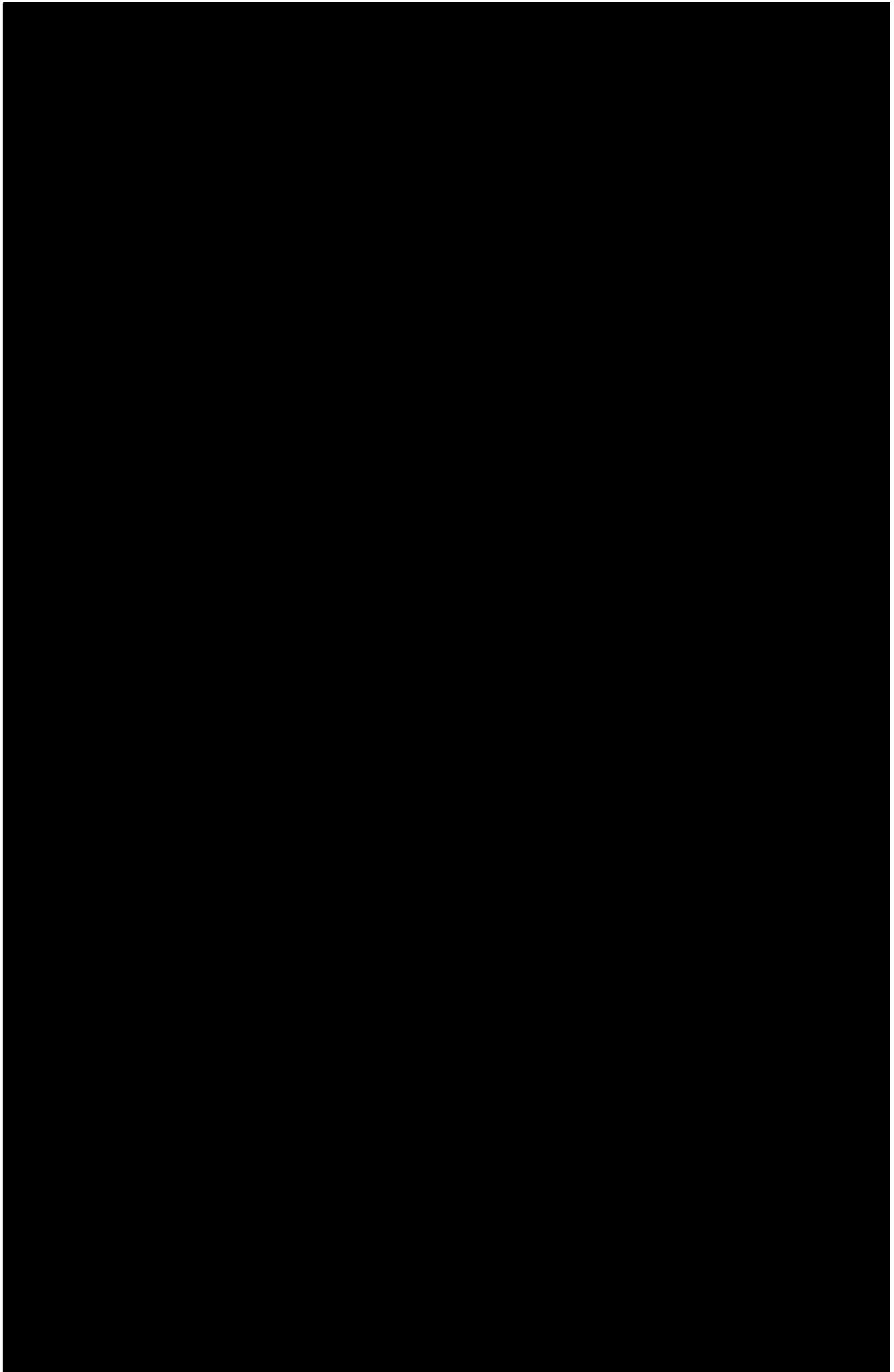












REPORT OF HANDLING

REPORT OF HANDLING

Reference: 2014/0725/TP

Date Registered: 16th December 2014

Application Type: Full Planning Permission

This application is a Local Development

Ward: 1 Neilston Newton Mearns North Uplawmoor

Co-ordinates: 252479/:655811

Applicant/Agent: Applicant: Agent:

Mr And Mrs R Knox
9 Priorwood Road
Newton Mearns
East Renfrewshire
G77 6WR

Proposal: Enlargement of private garden at side with erection of fencing (in retrospect)

Location: 9 Priorwood Road
Newton Mearns
East Renfrewshire
G77 6WR

CONSULTATIONS/COMMENTS: None.

PUBLICITY: None.

SITE NOTICES: None.

SITE HISTORY: None relevant.

REPRESENTATIONS:

3 representations have been received:

Representations can be summarised as follows:

- Impact on visual amenity;
- Legal/ownership issues surrounding the change of use and removal of the trees and bushes;
- This development could set a precedent for other householders to do similar; and
- The development is contrary to the original planning permission for the estate.

DEVELOPMENT PLAN & GOVERNMENT GUIDANCE: See Appendix 1

SUPPORTING REPORTS:

The applicant has submitted a statement in support of the application. In the statement the applicant provides title deed excerpts to illustrate ownership and maintenance responsibility; information to indicate that the site is not subject to any designation protecting the open space; correspondence from the Council stating that the trees on the site were not subject to any statutory protection; and advice that a fence of over 1 metre would be required at the side of the property for security and safety reasons relating to a medical condition.

ASSESSMENT:

The application site comprises a two storey semi-detached dwelling and its curtilage and lies within an established residential area. The dwelling is positioned such that the side gable wall faces Priorwood Road at an oblique angle. The resulting triangular parcel of land that lies between the gable wall and the heel of the footway, whilst falling within the ownership of the applicant, had been laid out by the developer as an area of amenity space. Material submitted by the applicant shows the area of ground planted with mature trees and bushes.

Retrospective planning permission is sought to regularise the change of use of this triangular piece of land from amenity space to private garden ground and for the erection of timber fencing. The applicant has removed the trees and bushes from the site, levelled and turfed the ground and extended the boundary fence to effect the enclosure of the site to form private garden ground. The fencing

measures 1 metre, 1.5 and 1.8 metres in height. Irrespective of ownership, it is considered that the enclosure of the piece of ground is material change of use of the land and requires planning permission.

It is considered that the determining issues relating to this application are the impact on the character and visual amenity of the area when assessed against the relevant local plan policies. Consideration will also be given to the security and safety issue alluded to in the applicant's supporting statement.

It is accepted that the site does not form part of an area of protected open space/important urban greenspace. This does not however negate any importance the site may have had in enhancing the character and amenity of the wider area. The site is visually prominent upon entry into Priorwood Road from the roundabout at Westacres Road. Numbers 1 to 5 Priorwood Road are set back from the road with numbers 7 and 9 positioned such that they extend towards the road and footway. It is considered that the manner in which the site was laid out by the original developer meant that the visual impact at this part of the site was lessened with a clear visual separation of the side garden from the road through the inclusion of this ground as landscaped amenity space. The open nature of the site and the planting would have softened the impact of this encroachment and indeed, photographs submitted by the applicant of the pre-existing established planting are considered to illustrate this.

The removal of the amenity space and its enclosure and change of use to private garden ground is considered to remove this "softening" effect to the detriment of the amenity of the wider development. As such, the proposal is considered to be contrary to Policy DM1 of the adopted East Renfrewshire Local Plan and Policy D1 of the proposed Local Development Plan. The comments from the applicant relating to the security of the site which they advise is important relating to a medical condition of a family member are noted. However it is not considered that this issue outweighs the above consideration as the dwelling already had an enclosed rear private garden.

In terms of the objections received which have not been assessed above the applicant has certified on the application form that they own the site and the Council has no reason to disbelieve this. Any title restrictions would not be affected by the grant or otherwise of planning permission and as such, would not be relevant to the consideration of this application. Any subsequent proposals elsewhere in the wider area will be assessed against the relevant policies of the development plan and any material planning considerations at that time. The original grant of planning permission for the wider development does not prevent subsequent planning applications for amendments which, again, would again be assessed against the relevant policies of the development plan and any material planning considerations.

It is considered that the fencing should be removed and the ground returned to open amenity space with appropriate soft landscaping.

RECOMMENDATION: Refuse

PLANNING OBLIGATIONS: None

REASON FOR REFUSAL:

1. The change of use from open amenity space to enclosed private garden ground is contrary to Policy DM1 of the adopted East Renfrewshire Local Plan and Policy D1 of the proposed East Renfrewshire Local Development Plan as it detracts from the character and amenity of the area by removing a soft landscaped edge from a visually prominent part of the development.

ADDITIONAL NOTES: None

ADDED VALUE: None

BACKGROUND PAPERS:

Further information on background papers can be obtained from Mr Derek Scott on 0141 577 3034.

Ref. No.: 2014/0725/TP
(DESC)

DATE: 13th January 2015

DIRECTOR OF ENVIRONMENT

Reference: 2014/0725/TP - Appendix 1
DEVELOPMENT PLAN:

Strategic Development Plan

This proposal raises no strategic issues in terms of the Glasgow and the Clyde Valley Strategic Development Plan and therefore the East Renfrewshire Local Plan is the relevant policy document

East Renfrewshire Local Plan (Adopted 14th February 2011)

Policy DM1

Detailed Guidance for all Development

Where the principle of development is deemed to be acceptable in terms of the other Policies contained within this

Local Plan, proposals for development will require to conform to the appropriate criteria below:

1. Not result in a significant loss of character or amenity to the surrounding area.
2. Be of a size, scale and density in keeping with the buildings in the locality and respect local architecture, building form, design, and materials.
3. Not constitute backland development without a road frontage.
4. Not impact adversely on the landscape character, involve a significant loss of trees or other Important landscape, greenspace or biodiversity features (see Policies E3 - "Protection of Natural Features", E6 - "Biodiversity" L1 - "Protection of Important Urban Greenspace", and L2- "Safeguarding the Local Greenspace Resource".
5. Ensure that landscaping is an integral element in layout design, taking account of existing physical features (e.g. trees, hedgerows, walls, etc.). Where appropriate, tree planting should augment the amenity and appearance of the site.
6. Ensure that the standards for 'Open Space' are satisfied see Policy L4 - "Open Space Provision in New Developments" and Appendix 1).
7. Meet the parking and access requirements of the Council and provide Appropriate mitigation to minimise the impact of new development (see Policies T3 - "New Transport Infrastructure" and T5 -"Other Traffic Management and Calming Measures).
8. Not prejudice the amenity of neighbouring properties by unreasonably restricting sunlight or privacy.
9. Seek to create safe and secure environments and reduce the scope for anti-social behaviour and fear of crime.
10. Be designed to meet disability needs and include provision for disabled access within public areas.
11. Minimise the extent of light pollution caused by street and communal lighting and any flood lighting forming part of, or associated with, development.
12. Be designed to include provision for the recycling, storage, Collection and composting of waste materials.
13. Be designed to retain on-site, for use as part of the development, as much as possible of all waste material arising from construction of the development.
14. Be designed where applicable to take into account the legacy of former mining activity.

Proposed Local Development Plan

The Proposed Local Development Plan (LDP) has been sent for Examination to the Scottish Government. The LDP outlines the Council's most up to date statement of planning policy.

Policy D1

Detailed Guidance for all Development

Proposals for development should be well designed, sympathetic to the local area and demonstrate that the following criteria have been considered, and, where appropriate, met. In some cases, where the criteria have not been met, a written justification will be required to assist with assessment.

1. The development should not result in a significant loss of character or amenity to the surrounding area;
2. The proposal should be of a size, scale, massing and density that is in keeping with

- the buildings in the locality and should respect local architecture, building form, design, and materials;
3. The amenity of neighbouring properties should not be adversely affected by unreasonably restricting their sunlight or privacy. Additional guidance on this issue is available in the Daylight and Sunlight Design Guide Supplementary Planning Guidance;
 4. The development should not impact adversely on landscape character or the green network, involve a significant loss of trees or other important landscape, greenspace or biodiversity features;
 5. Developments should incorporate green infrastructure including access, water management, landscaping, greenspace, water management and Sustainable Urban Drainage Systems at the outset of the design process. Where appropriate, new tree or shrub planting should be incorporated using native species. The physical area of any development covered by impermeable surfaces should be kept to a minimum to assist with flood risk management. Further guidance is contained within the Green Network Supplementary Planning Guidance;
 6. Development should create safe and secure environments that reduce the scope for anti-social behaviour and fear of crime;
 7. Developments must be designed to meet disability needs and include provision for disabled access within public areas;
 8. The Council will not accept 'backland' development, that is, development without a road frontage;
 9. Parking and access requirements of the Council should be met in all development and appropriate mitigation measures should be introduced to minimise the impact of new development. Development should take account of the principles set out in 'Designing Streets';
 10. Development should minimise the extent of light pollution caused by street and communal lighting and any floodlighting associated with the development;
 11. Developments should include provision for the recycling, storage, collection and composting of waste materials;
 12. As much as possible, all waste material arising from construction of the development should be retained on-site for use as part of the new development;
 13. Where applicable, new development should take into account the legacy of former mining activity;
 14. Development should enhance the opportunity for and access to sustainable transportation, particularly walking and cycle opportunities including cycle parking and provision of facilities such as showers/lockers, where appropriate. The Council will not support development on railways solums or other development that would remove opportunities to enhance pedestrian and cycle access unless mitigation measures have been demonstrated;
 15. The Council requires the submission of a design statement for national and major developments. Design statements must also be submitted in cases where a local development relates to a site within a conservation area or Category A listed building in line with Planning Advice Note 68: Design Statements.

GOVERNMENT GUIDANCE: None relevant

Finalised 13/01/15 IM(1)

**DECISION NOTICE
AND
REASONS FOR REFUSAL**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013**

REFUSAL OF PLANNING PERMISSION

Ref. No. **2014/0725/TP**

Applicant:

Mr And Mrs R Knox
9 Priorwood Road
Newton Mearns
East Renfrewshire
G77 6WR

Agent:

With reference to your application which was registered on 16th December 2014 for planning permission under the abovementioned Act and Regulations for the following development, viz:-

Enlargement of private garden at side with erection of fencing (in retrospect)

at: 9 Priorwood Road Newton Mearns East Renfrewshire G77 6WR

the Council in exercise of their powers under the abovementioned Act and Regulations hereby refuse planning permission for the said development.

The reason(s) for the Council's decision are:-

1. The change of use from open amenity space to enclosed private garden ground is contrary to Policy DM1 of the adopted East Renfrewshire Local Plan and Policy D1 of the proposed East Renfrewshire Local Development Plan as it detracts from the character and amenity of the area by removing a soft landscaped edge from a visually prominent part of the development.

Dated 13th January 2015



Director of Environment
East Renfrewshire Council
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank,
G46 8NG
Tel. No. 0141 577 3001

The following drawings/plans have been refused

Plan Description	Drawing Number	Drawing Version	Date on Plan
Location Plan	LOCATION PLAN 1		
Block Plan Proposed	BLOCK PLAN 1		

GUIDANCE NOTE FOR REFUSAL OF LOCAL DEVELOPMENTS DETERMINED UNDER DELEGATED POWERS

REVIEW BY EAST RENFREWSHIRE COUNCIL'S LOCAL REVIEW BODY

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. A notice of review should be addressed to the Principal Committee Services Officer, Council Headquarters, Eastwood Park, Rouken Glen Road, Giffnock G46 6UG. Applicants can also ask for a review if the application has not been determined within the 2 month time period for a decision.

Requests for review must be made on the Notice of Review form which is available to download from the Council's website at www.eastrenfrewshire.gov.uk or alternatively call the Planning general enquiry lines on 0141 577 3895 or 3878 to request one. Following submission of the notice, you will receive an acknowledgement letter informing you of the date of the Local Review Body meeting or whether further information is required.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

CONTACT DETAILS

**East Renfrewshire Council
Development Management Service
2 Spiersbridge Way,
Spiersbridge Business Park,
Thornliebank,
G46 8NG**

**General Inquiry lines 0141 577 3895 or 0141 577 3878
Email planning@eastrenfrewshire.gov.uk**

**NOTICE OF REVIEW
AND
STATEMENT OF REASONS**

9 Priorwood Road
Newton Mearns
Glasgow G77 6WR

Dear Sir/Madam,

This application is a retrospective application form.

Following work done in our garden this year, we were advised the work did not meet with council requirements. We received a letter dated 20 Mar 2014 from Ralph Howden (Planning Officer) regarding the work completed and have been in discussion since with Mr. Howden.

The ground was originally as the images in Appendix 6 with trees taller than the house and hedging of heights >6ft and no curtailment at the corners. The removal of the trees and hedges in Q1 2012 was approved by Mr. Howden in Sep 2011 (see Appendix 1). For the next two years the ground grew quite untidy despite our best efforts until we could afford the alterations carried out in March 2014.

The area in question to the side of our house is;

- a) Marked as our property on the title deed and is not marked as open amenity space on the land register certificate. This map indicates amenity open space highlighted in yellow. (See Appendix 2)
- b) Not marked as amenity open space in the Important Urban Greenspaces - Final Report. This includes a section which specifies areas within Westacres. (See Appendix 3)
- c) Not marked as Greenbelt on the Local Development Plan Proposal Map 3 of the East wood Area. (See Appendix 4)
- d) Marked as private garden on the East Renfrewshire Open Space Provision, Vacant and Derelict Land and Core Paths. (See Appendix 5)

When we moved into 9 Priorwood Road, we were advised by the factors at the time that the hedging and trees were to be maintained by us as it was our garden space and thus householders responsibility. Indeed the area has never once been maintained by the previous factors or the council maintenance carried out in the estate. Due to this, the above documents listed and other householders in the same estate having fences at the road-side of 6ft, we had believed we were within permitted development rules when altering the fence and maintaining its height at 6ft.

Following advice from Mr. Howden, we have since reduced the height of the fence at the side of the road to 1m – although this is a cause for concern regarding our house security and three year old sons' safety. Our son has been referred for an assessment with the South Autism team and we are currently awaiting this assessment. As such, we require strong secure boundaries in place for our son.

Please see enclosed pictures of the current layout (Appendix 7). Mr Howden advised this still does not meet permitted development and hence this retrospective application to ensure compliance. Mr Howden has kindly provided his opinions and advice, but we do not feel these have agreed with the above documents or advice from the internet so we would respectfully request an alternative

representative contact us for a discussion of this application to minimise confusion and we can work together towards a successful outcome.

4. Description of Proposed Development

Laying down turf on side area and altering fence to run out to the pavement next to the driveway, then along the pavement until in line with the electricity meter on the side of the house. The fence then runs back in towards the house with a gate located next to the house. Please see enclosed pictures (Appendix 7) and summary of work carried out by gardening company (Appendix 8). The fence at the side of the road has since been reduced to a height of 1m.

Environment Department
Director: Andrew J Cahill, BSc (Hons)



Head of Environment (Planning, Property and Regeneration): Iain MacLean FCIH

2 Spiersbridge Way, Spiersbridge Business Park, Thornliebank, G46 8NG
Phone: 0141 577 3001 Fax: 0141 577 3781 DX: 501601 GIFFNOCK

Our Ref: 14/00023/USE

Your Ref:

Date: 20 March 2014

When calling please ask for: Mr Ralph Howden on 0141 577 3694 ralph.howden@eastrenfrewshire.gov.uk

The Owner/Occupier
9 Priorwood Road
Newton Mearns
East Renfrewshire
G77 6WR

Dear Sir/ Madam

Town and Country Planning (Scotland) Act 1997(as amended)
Complaint Regarding: Unauthorised extension of garden ground and erection of fence

At: 9 Priorwood Road Newton Mearns East Renfrewshire G77 6WR

Suggestion has been received that you have extended your garden ground into an area of public amenity space to one side and that this change includes the construction of a fence.

If this is the case, planning permission is required both for a change of use and the fence.

I am of further of the opinion that planning consent for these matters would be unlikely and would thus suggest that the site be returned to its original state.

Please contact me to discuss these matters.

The opinion given in this letter is based on the information provided. If you require a formal opinion from the Council, you will need to apply for a Certificate of Lawfulness for the proposed development. Please let me know if you wish to apply and I will forward the relevant application form to you along with the details of the current fee.

Yours faithfully

RALPH HOWDEN
PLANNING OFFICER

APPENDIX 1A

Sent from my iPad

Begin forwarded message:

From: "Howden, Ralph" <Ralph.Howden@eastrenfrewshire.gov.uk>
Date: 15 September 2011 11:06:42 BST
To: "xxrik7@gmail.com" <xxrik7@gmail.com>
Subject: FW: Tree Cutting

Mr Knox,

Your house is neither with a tree Preservation Order area or Conservation area. Nor do the trees appear part of the structural tree planting for this development.
Permission is not required from the Council to undertake these treeworks.

Thanks

RALPH HOWDEN
PLANNING ENFORCEMENT OFFICER
EAST RENFREWSHIRE COUNCIL
0141 577 3694

From: Ricky Knox [mailto:xxrik7@gmail.com]
Sent: 14 September 2011 19:17
To: Local Plan
Subject: Tree Cutting

Dear Sir/Madam,

I have two trees and a hedge up the side of my house which I wish to cut down. Having checked the Title Deeds, the relevant foliage is within the boundary of our property, and I have also checked your 2011 proposal Maps, and I wish to clarify with yourselves, whether or not I require planning permission in order to proceed with my plans. If this is required, please advise as to how I go about this. My address is 9 Priorwood Road, Newton Mearns, Glasgow G77 6WR.

Yours sincerely
Richard Knox

This email has been scanned.

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This footnote also confirms that this e-mail message has been swept for the presence of computer viruses. (v5.2r)

REGISTERS OF SCOTLAND



(LAND REGISTRATION (SCOTLAND) RULES 2006 Rule 15)

LAND REGISTER OF SCOTLAND
LAND CERTIFICATE
VERSION 12/09/2006

Title Number: REN96384

Subjects: 9 PRIORWOOD ROAD, NEWTON
MEARNS, GLASGOW G77 6WR.

**THIS LAND CERTIFICATE, ISSUED PURSUANT TO SECTION 5(2)
OF THE LAND REGISTRATION (SCOTLAND) ACT 1979,
IS A COPY OF THE TITLE SHEET RELATING TO THE ABOVE SUBJECTS.**

STATEMENT OF INDEMNITY

Subject to any specific qualifications entered in the Title Sheet of which this Land Certificate is a copy, a person who suffers loss as a result of the events specified in section 12(1) of the above Act shall be entitled to be indemnified in respect of that loss by the Keeper of the Registers of Scotland in terms of that Act.

ATTENTION IS DRAWN TO THE GENERAL INFORMATION OVERLEAF.



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TITLE NUMBER REN96384

D 7

D. BURDENS SECTION

(EIGHTH)

PLAY AREAS AND OPEN SPACE

The areas of ground tinted yellow on the Title Plan, together with all fences, walls, hedges and other boundary features whether man made or natural erected thereon (all hereinafter referred to as "Open Space") shall be laid out as open space, play areas or amenity ground and that in such a way or manner as we in our sole discretion think proper, thereafter the open space shall be conveyed pro indiviso to all the proprietors within the Development who shall be responsible for the cost of repair and maintenance of the open space. There shall be appointed, a Factor who will be responsible for instructing and supervising the maintenance of the open space and apportioning the cost thereof among the several proprietors in accordance with the provisions of these presents. The said Factor shall be appointed by us in the first instance from the date upon which the open space is hand over the Factor for maintenance purposes (hereinafter referred to as "the initial period"). Thereafter the said Factor shall be appointed in terms of Clause (Ninth) (Quarto) hereof. Declaring that there is reserved always to us and our successors as superiors of the development in all time coming (One) a right to enter upon any part of the open space as may be reasonably required for the purpose of service connections and the installation of any services required by us and our foresaids and (Two) a right of access for pedestrian and vehicular traffic over any part of the open space including a right to form all such accesses but that subject to, in both cases, the party exercising such right or rights making good any damage occasioned thereby.

(NINTH)

POWER TO CALL MEETINGS

The proprietors of any ten of the dwellinghouses shall have power to call a meeting of all the proprietors of all the dwellinghouses to be held at such reasonably convenient time (excepting Saturdays and Sundays and Public Holidays) and place as the convenors of the said meeting may determine and of which time and place of meeting at least seven days prior notice in writing shall be given by or on behalf of the convenors of the said meeting to the other proprietors and at any meeting so convened any of the proprietors may be represented by a mandatory, the proprietor or proprietors of any fifteen or more dwellinghouses or the mandatory or mandatories



Important Urban Greenspaces

Landscape Character Assessment

Final Report

Prepared for
East Renfrewshire Council

by Land Use Consultants

November 2005



Character Type: Formal Park.....	40
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Broompark Pond, Newton Mearns	91
Leslie Avenue/Buchanan Drive, Newton Mearns	92
Holehouse Brae, Neilston.....	94

Visual Sensitivity	High.
General Visibility	Medium to high. The sites are highly visible from the roads in the area but there is a limited number of houses which look over them.
Population	High. The busy nature of the roads in the area means a large number of people are likely to perceive any change to the landscape.
Mitigation Potential	Low. The small size of the sites means that any development is likely to have a significant impact and the potential for mitigation is low.

Landscape Evaluation and Recommendations

- 3.78. The character of the landscape is primarily determined by its function. The sites are amenity grassland which have some landscape value because they provide a public open space. They are well maintained and help to form a buffer between the urban and rural areas.
- 3.79. The character of these sites is likely to change significantly because of the new housing and business developments likely to take place on the west of Dodsie Road.
- 3.80. The current maintenance regime should be continued to maintain the aesthetic quality of the sites. Would be appropriate to have landscape enhancement and tree planting to create setting for future development and improve setting to current housing?

WESTACRES (A), NEWTON MEARNS



Based on Ordnance Survey material

LUC Code	PAN65 Classification
NMI	Natural/semi natural
NM23	

Area Description

- narrow linear character areas focusing on two burns which run through the Westacres area. The burn on the southern side of the site (running generally from south west to north east) is heavily vegetated along its steep sided valley walls;
- the burns are often hidden from view by vegetation and housing;
- there is no physical access to the site which increases its value as a green corridor;
- the site provides minimal visual amenity because it is overlooked by back gardens which are high on the shoulder of the valley side;
- the southern boundary of the site is currently being developed for housing.

Landscape Evaluation

Landscape Sensitivity	High
Strength of typical character	High. The sites display many of the characteristics typical of the character type.
Condition/Intactness	High. The site is inaccessible and has therefore remained intact.
Aesthetic Character	Medium. The sites contribute to the overall character of the area by providing greenspaces between houses.

Visual Sensitivity	Medium
General Visibility	Medium to low. Many parts of the sites are not visible because of the layout of the housing and gardens.
Population	Medium to low. Given their low general visibility and the relatively small population that live in the area, a low number of people are likely to interact with the sites.
Mitigation Potential	Medium to high. The site is narrow meaning that any development would be likely to have a significant impact on their amenity.

Landscape Evaluation and Recommendations

- 3.81. The site will create a buffer between the existing housing and the current development. Its importance as part of a wildlife corridor along Capelrig Burn should be recognised and its current natural state maintained.

WESTACRES (B), NEWTON MEARNS



Based on Ordnance Survey material

LUC Code	PAN65 Classification
NM21	Amenity Greenspace

Area Description

- the western most site at Westacres is the bank between the M77 and the housing in the area;
- the site is inaccessible from Westacres to reduce the risk of pedestrians accessing the motorway;
- the area is grassed – fragmented series of narrow grassed slopes and awkward verges.

Landscape Evaluation

Landscape Sensitivity	Medium to high
Strength of typical character	High. The site is characteristic of the character type.
Condition/Intactness	High. The site is fully intact.
Aesthetic Character	Low. The site forms an embankment to the M77 which detracts significantly from its aesthetic value.

Visual Sensitivity	Low to medium
General Visibility	Low. The site is enclosed by fencing and the M77.
Population	Low. The only population likely to perceive the site are those living directly adjacent to it.

Visual Sensitivity	Low to medium
Mitigation Potential	Low. The small size of the site would make mitigation against any development difficult.

Landscape Evaluation and Recommendations

- 3.82. The site helps to create a buffer between the M77 motorway and houses. The site should continue to be maintained as it is at present. There is limited scope to improve the site because of its small linear nature and therefore the lack of available space.

WESTACRES (C), NEWTON MEARNS



Based on Ordnance Survey material

LUC Code	PAN65 Classification
NM22	Amenity greenspace

Area Description

- the central area of Westacres is a small area of greenspace with a tributary stream of the Capelrig Burn running through it;
- parts of the site are inaccessible but there is a path through the area on the south side of the burn. The area around this path is amenity grassland with little ecological interest.
- the other parts of the site contain a range of vegetation including trees, shrubs and grasses;
- the route through the site is an important functional and recreational access route;
- the parts of the site visible from the roads in the area provide some limited visual amenity.

Landscape Evaluation

Landscape Sensitivity	High
Strength of typical character	High. The site contains most of the features typical of the character type.
Condition/Intactness	High. The site was created during the development of the housing in the area (in the mid 1990s). It has remained untouched since then.
Aesthetic Character	High. The site contains an important functional access route through the area.

Visual Sensitivity	Medium
General Visibility	High to medium. Parts of the site are visible from many areas of Westacres.
Population	Medium. The population of Westacres are the only people likely to perceive the site.
Mitigation Potential	Low. The compact nature of the site would make mitigation against development difficult.




Landscape Evaluation and Recommendations

- 3.83. The site is of small scale but provides amenity greenspace in a largely built up area. It should continue to be maintained as at present. The site could be improved through the introduction of amenity planting to reinforce the character of the site.






**PROPOSALS MAP 3 - EASTWOOD AREA AND EAGLESHAM INSET
KEY**

Details on Proposals and Policies can be found within the Written Statement.













Key Areas for Change and Settlement Strategies

-  M2 M77 Masterplan Area
-  M2.1 - M2.2, M3 - M5 Masterplans
-  M6, M8 Regeneration Areas

Placemaking and Design






-  D2 General Urban Areas
-  D3 Green Belt
-  D3 Countryside around Towns
-  D4 Green Network
-  D5 Protection of Urban Greenspace

Placemaking and Design (Schedules 1 to 7)

-  D8.2 SSSI
 -  D8.3 TPO
 -  D8.4 LBS
 -  D8.5 Core Paths
 -  D8.6 Rights of Way
 -  D10 Environmental Projects
 -  D11.1 - D11.6 Conservation Areas and Article 4 Direction Area
 -  D11.7 - D11.8 Inventory of Gardens and Designed Landscapes
 -  D11.9 - D11.19 Scheduled Monuments
 -  D8.1, D11.20 - D11.21 Environmental Protection Projects
 -  D12 New Conservation Areas
 -  D13 New and Improved Facilities
- D13.28 and D13.29 Proposed Modifications**

Sustainable Economic Growth



Meeting Housing Needs (Schedules 8 to 11)

-   SG1.1 - SG1.43; SG2.1 - SG2.8 Housing Sites
-  SG1.44 - SG1.46 Affordable Housing Sites
-  * Sites including, or exclusively, safeguarded Post-2025 Programming
-  SG2.9 - SG2.19 Masterplan Sites




Economic Development (Schedules 12 to 16)

-   SG6.1 - SG6.14 Safeguarded Business and Employment Areas
-   SG6.15 - SG6.23 Business Proposals
-  SG7.1 - SG7.4 Town Centres
-  SG7.5 - SG7.28 Neighbourhood Centres
-   SG8.1 - SG8.8 New Shopping Development
-   SG8.9 - SG8.12 Business Improvement Districts

Transport (Schedule 17)

-   SG10 Sustainable Transport

Managing the Wider Environment (Schedules 18 and 19)

-  E1.1 Renewable Energy
-   E7 Waste Management Facilities

**Director of Environment
Andrew J Cahill BSc (Hons)**



**Scale 1:12,500
October 2013**

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**East Renfrewshire Proposed
Local Development Plan
Modifications**

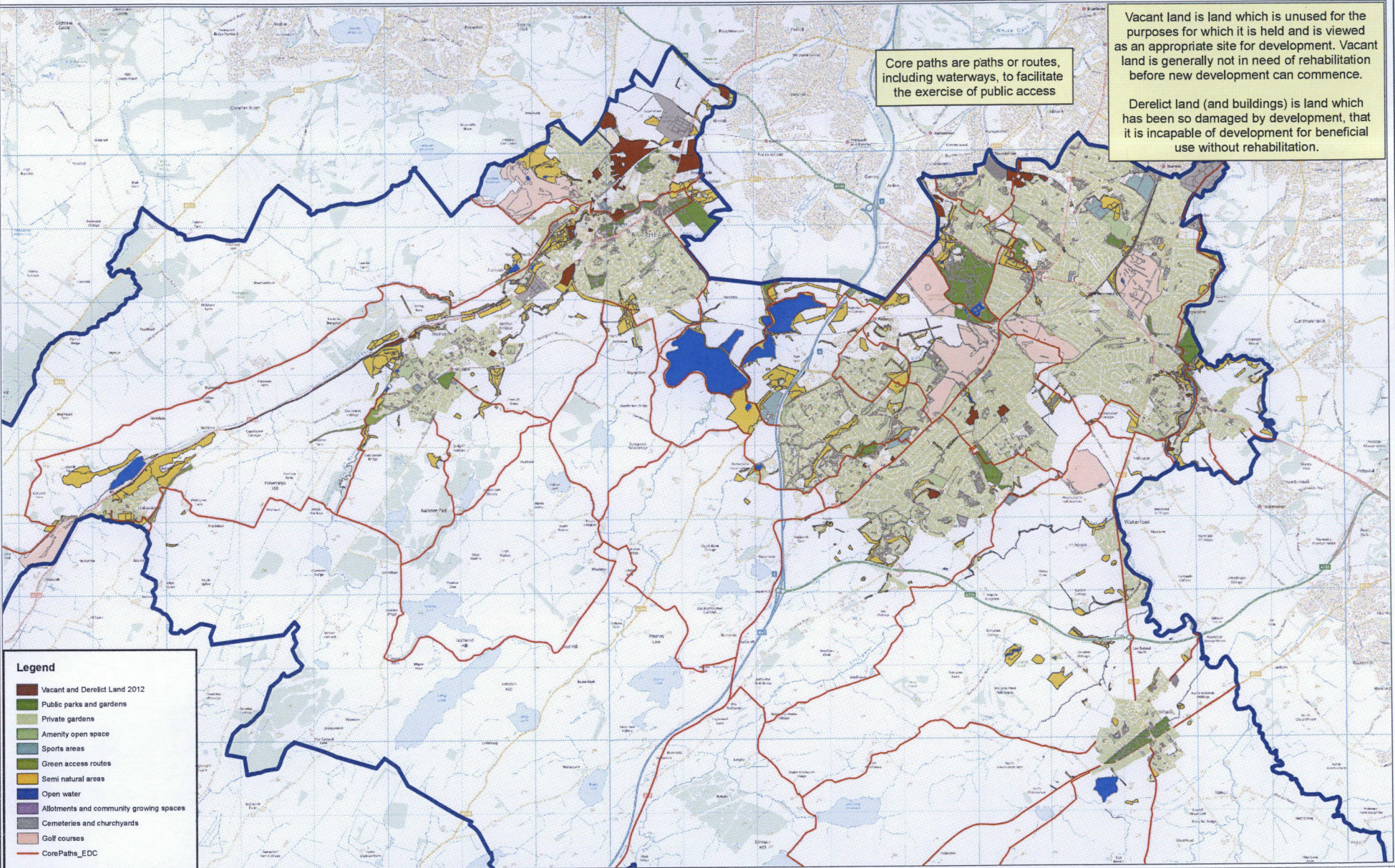


**Proposals Map 2 Levern Valley Area
Proposals Map 3 Eastwood Area and
Eaglesham Inset**

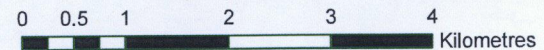
October 2013



East Renfrewshire Open Space Provision, Vacant and Derelict Land and Core Paths



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Address 6 Priorwood Road

Address is approximate





Address **Kiloran Grove / Priorwood Road**

Address is approximate





Address **11 Kiloran Grove**

Address is approximate





Address 6 Priorwood Road

Address is approximate



APPENDIX 7 - CURRENT LAYOUT





Mr R Knox
9 Priorwood Road
Newton Mearns
G77 6WR



Dear Mr Knox

03/03/2014

GARDENING WORKS – RECEIPT FOR PAYMENT

Further to attending your property please find below summary of gardening works and costs for which payment has been made in full:

Supply and Erect Timber Fencing – side boundary circa 20metres

Dismantle existing side fence to driveway (circa 8 metres)
Erect single-sided palisade fencing to circa 1800mm height
Fencing boards, post, apex cap and rails supplied pressure treated and stained brown
Fence boards fsc 1800x100x20mm pressure treated and stained brown
Fence rails fsc 3600x32x75mm pressure treated and stained brown
Fence posts fsc 100x100x2400mm pressure treated and stained brown
Fence apex capping rail fsc 100x22mm pressure treated and stained brown
Install double braced gate, with galvanised fixings

Cost of works £831

Turfing to side border circa 45 metres

Remove 3 tree stumps, numerous shrub/privet stumps, weeds etc from side garden
Excavate circa 10ton spoil from side path to pavement to grade plot
Supply and spread 2 ton compost loam to side garden and grade from pathway to pavement
Supply and lay circa 45sqm of family lawn turf to side garden
Order skip for gravel/debris/arising etc.

Cost of works £555

Bark to front garden/border

Clear front/side border circa 10sqm
Lay woven membrane across plot
Supply and spread 1m³ bark throughout border

Cost of work £84

Total cost of all works £1470 received with thanks 27th February 2013

Thank you for choosing Greensleaves to undertake works at your property. Should you have any queries or wish to discuss any aspect of works please call or email.

Kind regards,

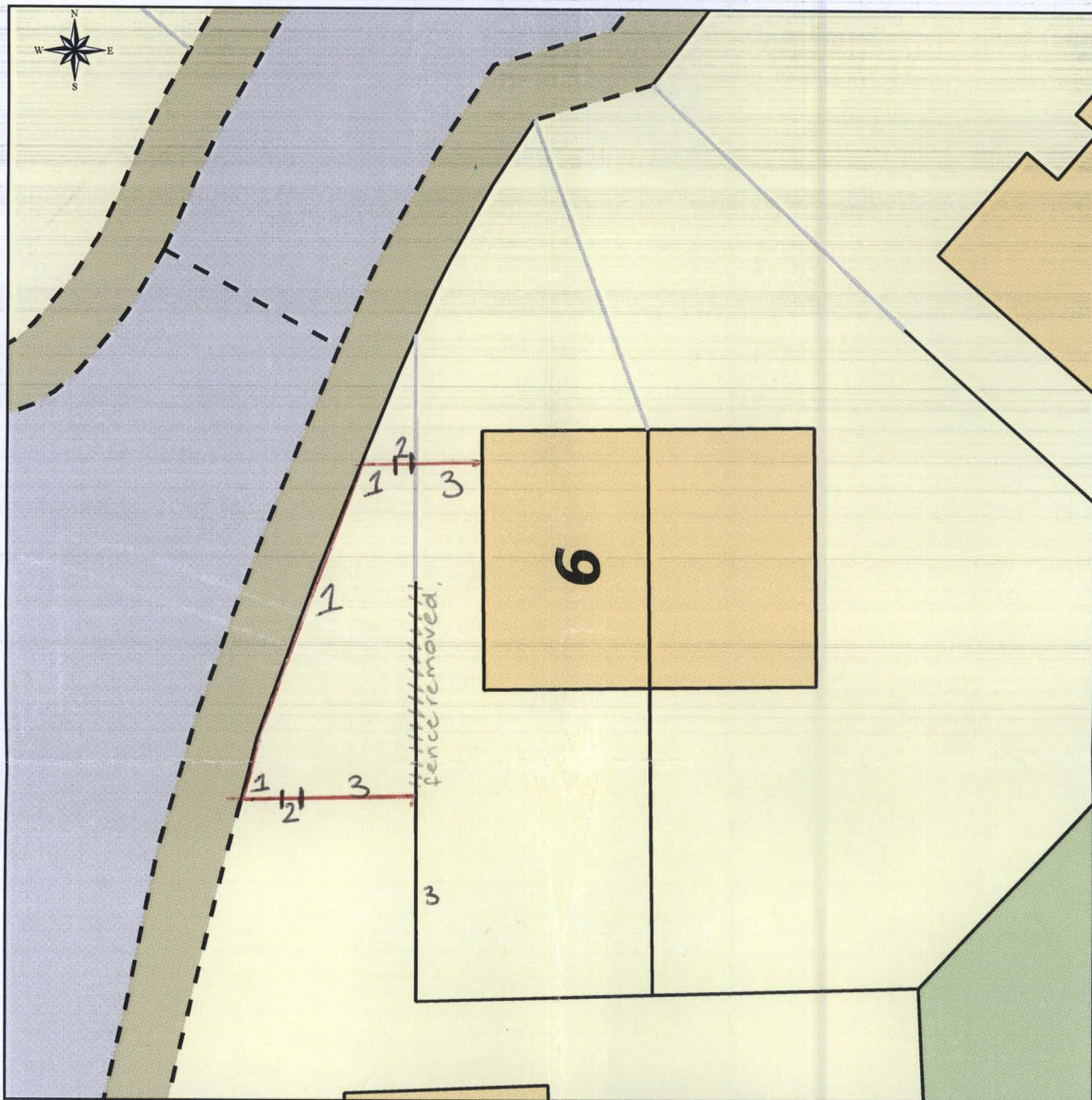
Ray McIntosh
Greensleaves Maintenance and Landscapes

PLANS/PHOTOGRAPHS/DRAWINGS

**Town and Country Planning
(Scotland) Act 1997**
REFUSED
Director of Environment
East Renfrewshire Council



Location Plan of G77 6WR



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0m 2m 4m 6m 8m 10m 12m 14m 16m

Scale: 1:200, paper size: A4

Heights

1 = 1m

2 = 1.5m

3 = 1.8m

Position of fence = red outline.

**Town and Country Planning
(Scotland) Act 1997**

REFUSED

Director of Environment
East Renfrewshire Council

ADDITIONAL PLANS RECEIVED

Date: 16/12/14

plans ahead by emapsite™

Prepared by: Jennifer Knox, 08-12-2014