

Supplementary Planning Document Residential Design Guide – section 1

Protecting living conditions of neighbours



January 2013

1: Introduction

This design guide has the status of a Supplementary Planning Document (SPD). It has been prepared to support policies of the North Somerset Replacement Local Plan (GDP/3) and Core Strategy and also has regard to national planning guidance. It does not contain new policies or proposals and was prepared in consultation with agents, local councils and the general public.

The purpose of the SPD is to provide consistency and detailed guidance for those involved in designing proposals for residential development within existing residential areas. It will be used as a basis for giving pre application advice to applicants and will form a material consideration in the determination of any subsequent planning applications. Development proposals that do not abide by the principles contained within this document are likely to be refused planning permission.

Many dwellings can be extended or altered without the need to get planning permission. To find out if your proposal needs planning permission you can visit the Planning Portal website at www.planningportal.gov.uk.

We offer a written advice service that allows you to get our opinion about either the need for planning permission or about the acceptability of proposals where permission is required. There is a charge for this service. We have prepared a guidance note which is available on our website at www.n-somerset.gov.uk to help you use this service.

2: Overbearing and loss of light

A new residential building or an extension to an existing one should not cause significant harm to the living conditions of neighbouring residents when using their gardens or habitable rooms. If a development is likely to significantly reduce the amount of daylight or sunlight to a habitable room or result in a significant overbearing impact on a neighbouring house, then the planning application is likely to be refused.

To assess whether there will be an overbearing impact or a significant loss of light to a neighbour's habitable room or garden the tests explained in this document will be applied. These are based in part upon guidance issued by the Building Research Establishment 'Site Layout for planning for daylight and sunlight: A guide to good practice – second edition' 2011.

Please note that: 1) secondary windows to habitable rooms at neighbouring properties are not normally given the same protection as the main window and 2) living rooms, dining rooms, kitchens, bedrooms, conservatories, studies and playrooms are considered to be habitable rooms while bathrooms, hallways and landings are not.

2.1 The 45 degree Test

The 45 degree test is used to determine the impact of a proposed new building or extension upon the occupants of neighbouring properties and applies to both single storey and two storey structures. It only applies when the proposed extension is at right angles to the neighbouring window. It is not to be used for windows which are opposite the extension.

There are two stages for applying the 45 degree test. The first stage considers the depth and width of the extension and the second considers the height of the extension. If the proposed extension fails both stages of the 45-degree test then the proposal would normally be considered unacceptable and would be refused planning permission. If however the proposed development only fails one of the tests then it is unlikely to result in a significant harmful impact.

2.1.1 Stage one of the 45 degree Test – depth and width

Draw the proposed structure in plan form and then accurately plot the neighbouring properties. Identify the nearest ground floor window at each neighbouring property that serves a habitable room. Draw a line at 45 degrees from the centre of these windows towards the proposed extension as shown in illustrations A and B.

Illustration A

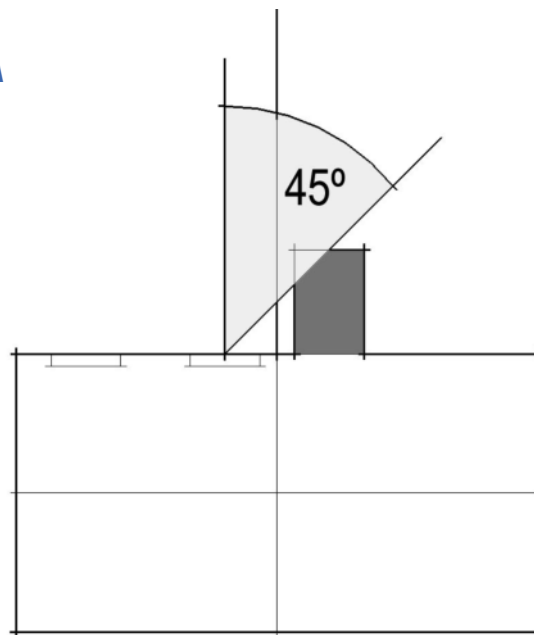
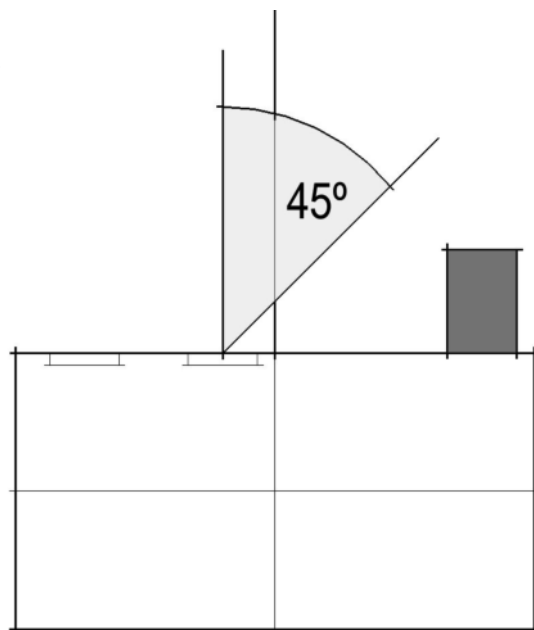


Illustration B



2.1.2 Stage two of the 45 degree test – height

Draw the rear elevation of your property and that of any neighbouring properties. Make sure the elevations reflect any changes in levels between your property and the neighbouring property. Mark a point directly in the centre of the neighbouring nearest ground floor window which serves a habitable room. If the relevant opening is a fully glazed patio door then mark a point in the centre of that door that is 1.6 metres above ground floor level. From this point draw a line at 45 degrees towards the proposed structure as shown in illustration C. Note that this test does not apply to dormer extensions to the roof that do not project forward of the main front wall of the building.

Illustration C



If the proposed structure would break the 45 degree line shown in both stage one and stage two then it is likely to have a detrimental impact upon the living conditions of the neighbouring residents and would normally be refused planning permission. You should therefore re-design your scheme in order to reduce its impact on the living conditions of neighbouring residents. Note that for conservatories a more relaxed approach may be taken by the council when applying the 45 degree test and considering the impact of the conservatory. This is because conservatories normally allow more light to pass through which reduces the impact upon neighbouring residents.

When appropriate, both stages of the 45 degree test may also be used when considering planning applications for new buildings and structures that are detached and separate from the main house.

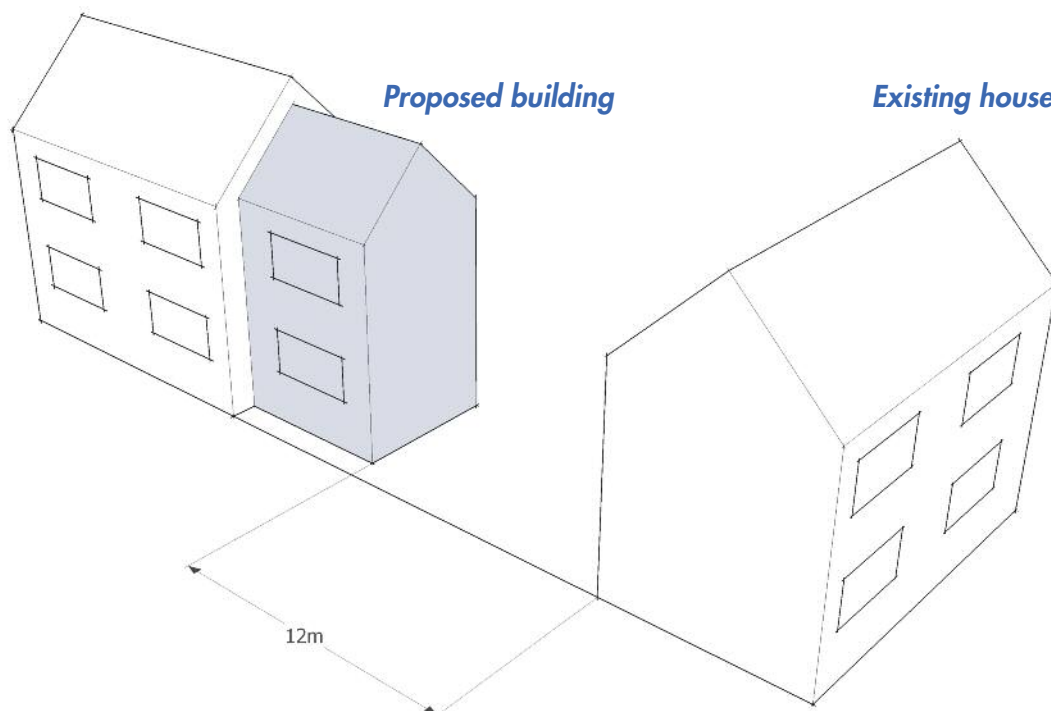
2.1.3 Tunnelling

A tunnelling effect can occur if a window or garden is flanked by extensions or new out buildings on both sides. Particular care therefore needs to be taken in these circumstances to prevent an excessive loss of light or an overbearing cumulative impact. Planning permission may be refused for an extension or outbuilding that complies with the 45 degree tests but which when considered with other existing buildings or structures would result in an unacceptable tunnelling effect.

2.2 The 12 metre test – side wall to main elevation

Where a development would result in a two storey side wall of a building being too close to a main elevation of a dwelling with windows, it will normally cause a significant loss of light or overbearing impact for the occupants of that dwelling. Therefore a distance of at least 12 metres should be maintained as shown in illustration D below. Developments that result in a distance of less than 12 metres will normally result in a significant loss of light and overbearing impact and in such circumstances would be refused planning permission. Note that the minimum distance of 12 metres may have to be increased if there is a significant change in ground levels.

Illustration D



2.3 Loss of private views

The loss of a private view is not relevant to the consideration of a planning application (unless it coincides with an important view from public land that would compromise the visual character of an area). However, developers are encouraged to speak with neighbours at early stage in the design process to find out if there are any views that they would like to see preserved. In this way developers can take into account the concerns of neighbouring residents which in turn can reduce the number of objection comments submitted to the council.

2.4 Right to light

Notwithstanding the 45 degree tests referred to above a “right to light” can be acquired by ‘anyone who has had uninterrupted use of something over someone else’s land for 20 years without consent, openly and without threat, and without interruption of more than a year.’ A useful guide about right to light legislation can be found on the Royal Institute of Chartered Surveyors website at www.rics.org/uk.

The fact that a neighbouring property has an established right to light is not relevant to the consideration of a planning application. However, we recommend that developers consider such issues early in the process to avoid unnecessary costs and delays. If a developer or resident considers that a development may reduce light that is protected by right to light legislation then they should seek legal advice.



3: Privacy and overlooking

3.1 Overlooking from windows

If a development is likely to result in a significant loss of privacy to neighbouring residents then planning permission is likely to be refused. To assess whether there will be a significant loss of privacy the tests explained below will be applied where relevant.

3.2 The 21 and 7 metre privacy tests

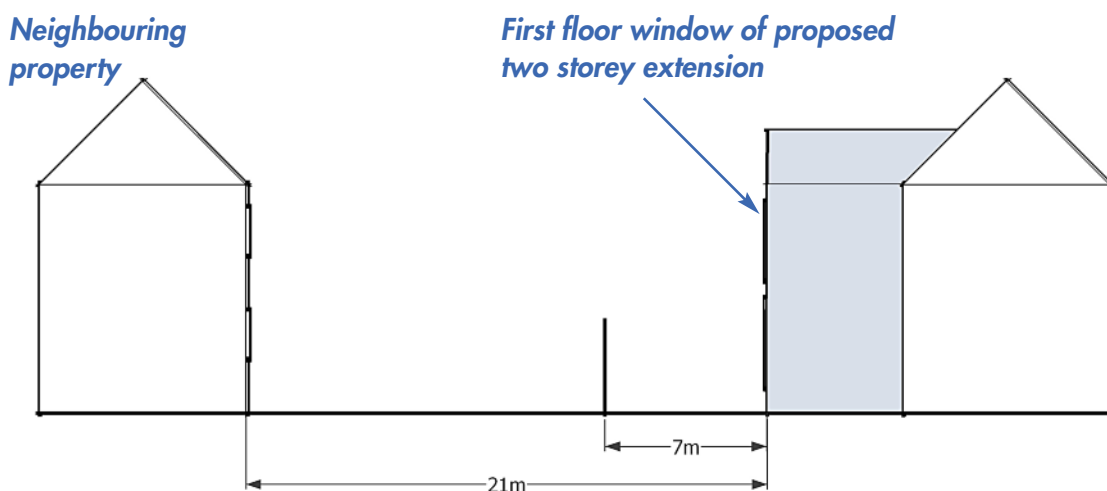
The privacy of neighbouring properties will normally be preserved by maintaining a distance of at least 21 metres between a proposed upper floor window and existing habitable room windows (see Illustration E).

In addition, a distance of no less than 7 metres should normally be maintained between a proposed upper floor window and the rear boundary of the property if it adjoins a neighbouring rear garden (see Illustration E).

Both the 21 and 7 metre tests are measured in plan form, along the ground. Proposals that do not meet either of these criteria will normally be refused.

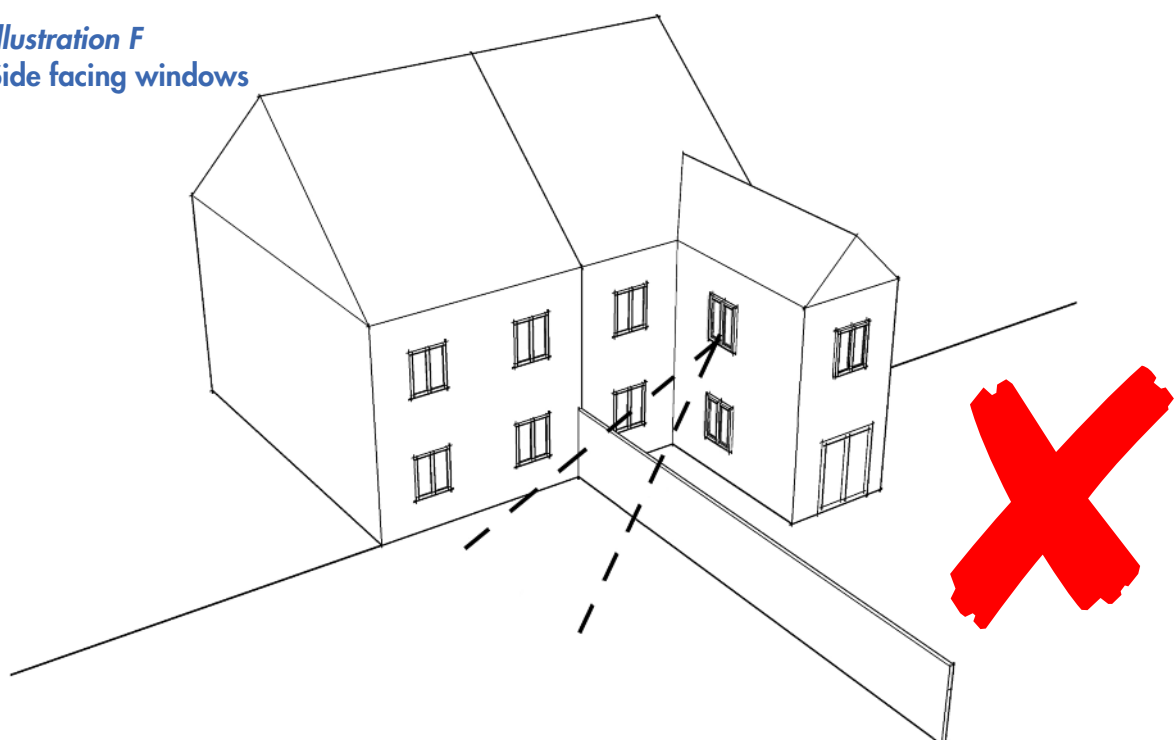
Please note that 1) significant changes in ground levels may result in these distances having to be increased and 2) the presence of any existing intervening vegetation that obscures views into the neighbouring property will not normally be sufficient, on its own, to make a proposal that does not comply with the 21 or 7 metre tests acceptable since they can too easily be removed or die.

Illustration E
Privacy and overlooking minimum distances for windows



Proposed windows should also avoid direct overlooking of neighbouring gardens as shown in illustration F below.

Illustration F
Side facing windows



3.3 Overlooking from balconies and raised platforms

Balconies and raised platforms provide significantly increased opportunities for overlooking and also increase the perception of overlooking when compared to windows. They can also result in noise and disturbance. Therefore, in order to maintain an adequate level of privacy for neighbouring residents, the required separation distances for these types of development may need to be greater depending upon the circumstances of the site. The use of screens can in some circumstances help to overcome problems of overlooking, but can also result in an unacceptable visual appearance and do little to prevent problems from excessive noise and disturbance.

4: Detailed design solutions that preserve the living conditions of neighbours

In addition to the above rules there are various ways to design development in order to reduce impact on the living conditions of neighbours. However, the design should remain sympathetic to the appearance of the original building and should take into consideration the character of the area.

4.1 Use of obscured glazing (frosted windows)

In limited circumstances it is possible to preserve privacy and prevent overlooking through the use of obscured glazing. However, it would not be appropriate, for example, to use obscured glazing for a window which is the main or only window serving a bedroom or other habitable room. Obscured glazing could be used for a window that serves a landing or bathroom.



To preserve privacy and prevent overlooking, windows which are obscure glazed should be obscure glazed to a degree no less than privacy level 3 of the Pilkington Group Limited textured glass range as defined in publication "Pilkington Textured Glass Range" (published January 2010). Please note that obscured glazing does not include one-way glass.

When using obscured glazing to preserve the privacy of neighbouring properties careful consideration should also be given as to how privacy will be maintained when the window is open. The parts of the window that can open should be at least 1.7 metres above the floor of the room in which the window is installed (in some circumstances such a window will not comply with building regulations).

4.2 Other design solutions

Other methods that can be used to preserve the living conditions of neighbouring residents include the following:

1. Moving the window to another side of the development where the level of overlooking would comply with these design standards.
2. Re-organising the layout so non-habitable rooms (which can use obscured glazing) are in the walls where overlooking is a problem.
3. Using a high-level window with a window sill that is at least 1.7 metres above the floor of the room in which the window is installed (care needs to be taken on prominent walls if a window at that height would appear out of character with existing windows). You will also need to check that such a window will comply with building regulations.
4. In the case of ground-floor windows the erection of screen fencing or walls can in some circumstances preserve the privacy of neighbours to an acceptable degree. Please note, however, that these can require planning permission in their own right. For advice about the need for planning permission for fences and wall please visit the Planning Portal at www.planningportal.gov.uk.
5. Using high-level roof lights. Roof lights will only overcome privacy issues where they are positioned high enough in the roof slope to prevent overlooking. The required height is normally 1.7 metres above the internal floor level.
6. Putting the extension on another part of the building. For instance, a side extension may be more acceptable than an extension at the back of a property.

Design solutions that result in proposals that are unsympathetic to the appearance of the original building or the character of the area will not be supported.

5: Other issues

Please bear in mind that this document relates only to the impact of the development upon the living conditions of neighbouring residents. When we receive planning applications for residential development we will also have to consider other material planning issues. This may include, for example, matters relating to the appearance of the development, flooding and drainage, highway safety, parking, waste and recycling, sustainability and ecology. Additional advice can be found on our website.

We strongly recommend that you consider early on how best to make your development energy efficient. Our planning policies require new dwellings to be energy efficient, provide a proportion of the energy needs of the building through the use of renewable technologies and to be constructed at Code Level 3 of the Code for Sustainable Homes. For more information about our policies please visit our website. For more information about the Code for Sustainable Homes please visit BREEAM's website at www.breeam.org.

You should consider carefully at an early stage if your scheme will encroach on to neighbouring property. For example will the eaves or foundations be entirely on your land? If not then you will need to obtain the permission of the person who owns the land and formally serve notice on them before you submit your planning application. For more information please see our advice note called "Ownership certificates" which is available on our website.

You may also be required to reach agreement with your neighbour under the provisions of the Party Wall Act 1996, even if your development does not extend right the way up to the boundary. You can read a helpful explanatory booklet about the Party Wall Act on the Planning Portal website at: <http://www.planningportal.gov.uk/>

You are also likely to need to obtain building regulations for your project. Further information about how to apply for building regulations is available on our website at: <http://www.n-somerset.gov.uk/Environment/buildingcontrol/> or from the www.planningportal.gov.uk.





6: Conclusion

Development proposals that do not follow the principles set out above are likely to be refused planning permission.

Due to the nature of their work, our planning officers are often out of the office and are not normally available to receive telephone calls directly. However, we do have a duty planning officer available during office hours to respond to general, non site-specific, queries over the telephone.

We strongly recommend that you employ the service of a professional planning agent to help you to design and submit your scheme. Good planning agents have experience in planning matters which can help you save both time and money. You can often find planning agents listed in a local directory.

We also operate an Accredited Agent Scheme. This scheme includes planning agents who have a track record of submitting to us the correct information, drawings and documents to enable us to register your application. Details of our Accredited Agent Scheme can be found on our website.

Council documents can be made available in large print, audio, easy read and other formats. Documents on our website can also be emailed to you as plain text files.

Help is also available for people who require council information in languages other than English.

For more information please phone:
01275 888 811