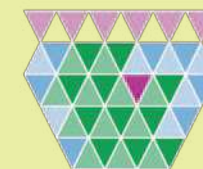


Moray Local Development Plan 2020

**PLANNING
POLICY
GUIDANCE**

PART 4





**The Moray Local
Development Plan 2020
was formally adopted
on 27th July 2020**

DP1 Daylight and Sunlight Guidance

This guidance is a tool to assist in the assessment of householder planning applications where a proposal may have an impact on the amount of sunlight received by neighbouring residential properties principal gardens/amenity space and/or the level of daylight received by neighbouring windows serving habitable rooms. These include bedrooms, kitchens (with dining areas), conservatories, living and dining rooms but not garages, bathrooms, utility rooms or circulation spaces).

Any assessment will need to take into account varying site contexts and patterns of settlements across Moray such as our Seatowns where external amenity space is restricted.

Applicant's may be requested to provide a daylight/sunlight assessment in support of their application where significant issues have been identified.

What is the difference between daylight and sunlight?

This guidance considers two forms of natural light:

Sunlight – the rays of light directly from the sun from a southerly direction received by residential properties principal garden/amenity spaces.

Daylight – the diffuse light from the sky that can come from any direction received by neighbouring windows serving habitable rooms (including bedrooms, kitchens, conservatories, living and dining rooms but not garages, bathrooms, utility rooms or circulation spaces).

This guidance utilises elements of the established and accepted methodologies to assess daylight and sunlight impact set out in the Building Research Establishment (BRE) Report Site Layout for Daylight and Sunlight: A Guide to Good Practice by P J Littlefair (2011) as much of the guidance is more appropriate to urban settings.



When to consider daylight and sunlight?

Wherever there is potential for daylight or sunlight impact on neighbouring properties this must be assessed. The main issues to consider when determining if there is an impact are as follows:

- Height of the proposal;
- Distance to neighbouring properties;
- Position and orientation of nearby windows;
- The developments location in relation to the path of the sun (orientation);
- Layout of the garden;
- Differences in ground levels; and
- Sensitivity of neighbouring property.

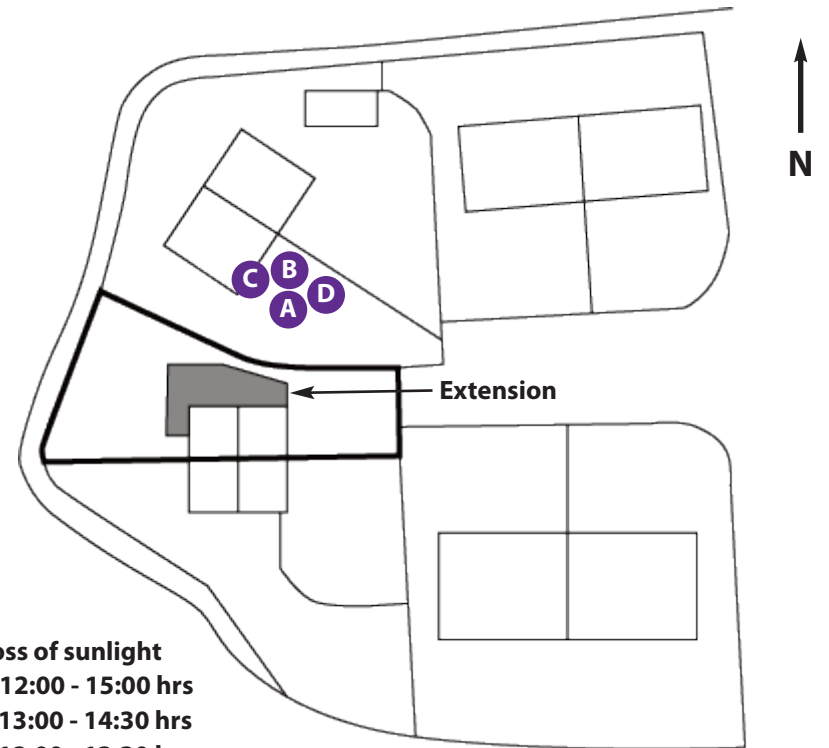
Considering sunlight and garden/amenity spaces

New development must be designed to ensure there is no excessive overshadowing of neighbouring properties gardens/amenity space. An assessment must be undertaken where the proposal adjoins the principal useable garden/amenity space serving a residential property and any part of the proposal lies south of the centre point of the garden/amenity space.

The methodology set out in the BRE Guide to Good Practice (2011) can plot where shadows will be cast by developments and can compare before and after shadows. Shadows can be determined at various times of the day (tracking the sun moving from morning to evening) and in different seasons.

An assessment of the proposals impact on the sunlight received by a garden must establish if the centre point of the garden in question shall receive more than 2 hours sunlight (as calculated on 21 March at an appropriate latitude 55-57° north). If the amenity space fails to receive this level of sunlight as a result of the proposals and the duration of sunlight received the Planning Officer will need to assess whether the proposed development would cause a material loss of sunlight and significant loss of amenity of that space justifying refusal.

Daylight Sunlight Impacts



- Loss of sunlight**
- A 12:00 - 15:00 hrs**
 - B 13:00 - 14:30 hrs**
 - C 12:00 - 13:30 hrs**
 - D 13:00 - 16:30 hrs**

Not to scale

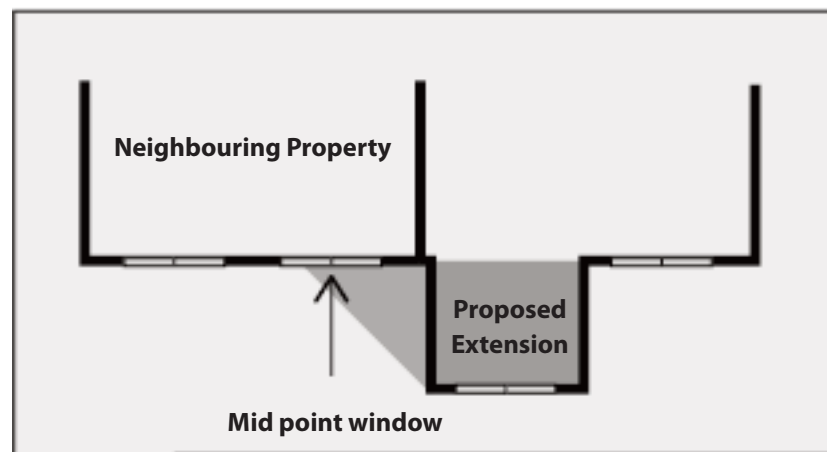
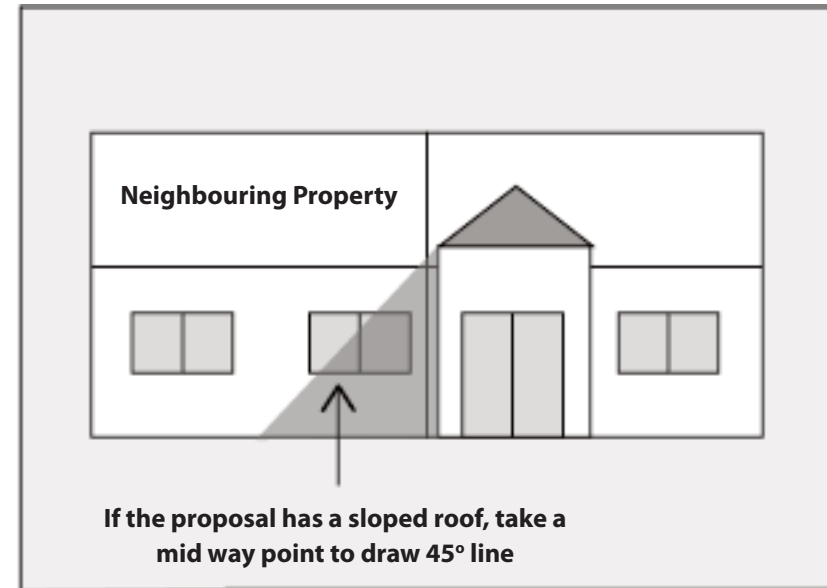
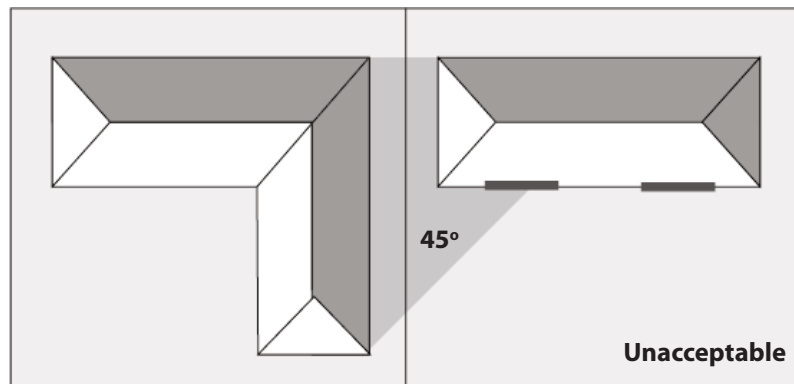
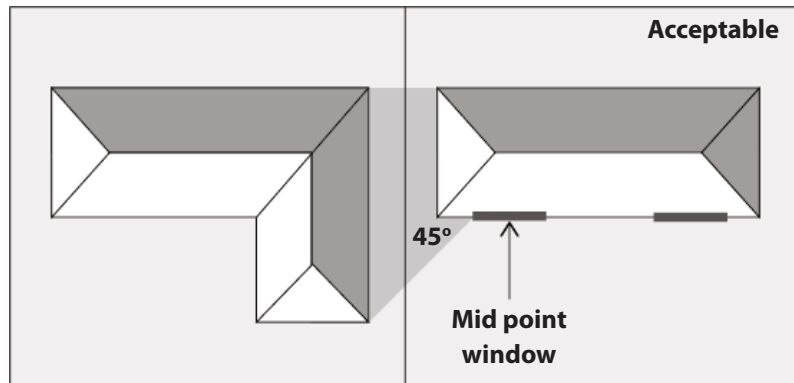


Considering the daylight reaching habitable rooms

The 45° approach

The 45° assessment is used where a window would be next to a development but not directly facing it. The purpose of this assessment is to make sure that a development does not take away too much daylight and is based on the notion that it is reasonable to expect a certain level of light to habitable room windows.

To do a 45° assessment both a floor plan and elevation drawing are needed showing the potentially affected windows and the proposed development.



Assessment in both elevation and plan form shows the mid point of the window within the 45° splay and would fail the test

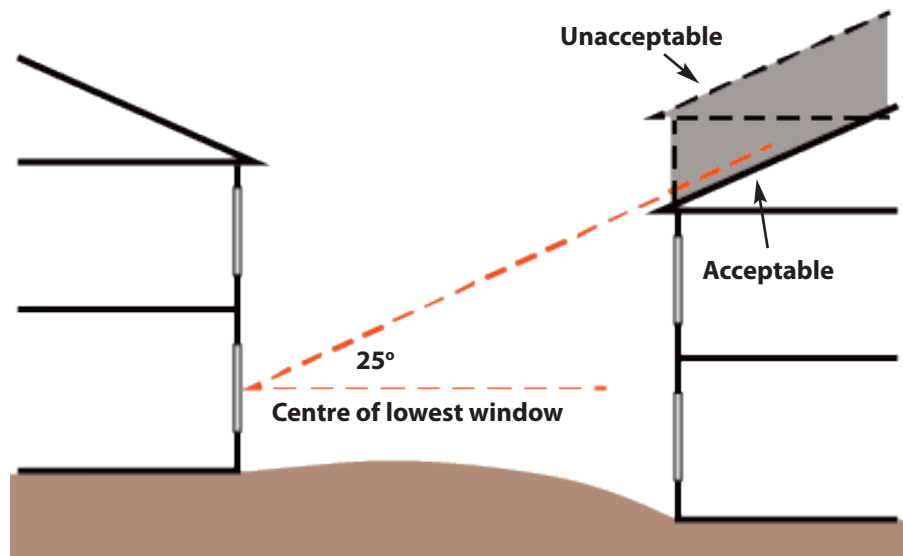


The 25° approach

The 25° assessment is used where neighbouring windows directly face a development.

It is accepted that some development may inevitably result in some additional overshadowing to neighbouring houses and gardens. It is for the Council as Planning Authority to determine the significance and acceptability of proposals taking into account all relevant material planning considerations.

It should be noted that householders have extensive permitted development rights for extension and this guidance does not apply to development that is permitted by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.



DP7 RETAIL/TOWN CENTRES

Proposals out with town centres likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities are required by policy DP7 Retail/Town Centres to

- a) Demonstrate that no sequentially preferable sites are available; and
- b) Demonstrate that there is no unacceptable individual or cumulative impacts on the vitality and viability of the network of town centres.

Proposals for retail, offices, leisure, entertainment/cultural and community facilities out with the town centre should be accompanied by the following information to allow consideration against policy DP7.

Anticipated Footfall

A statement setting out the anticipated footfall for the proposal is required in order to assess if the proposal is considered to attract significant levels of footfall which would mean further assessment under DP7 part b is required. The statement should cover the following

- Provide figures for the average and peak footfall the proposal will attract. If proposal is seasonal the peak season should be used.
- If the proposal is an extension to an existing use applicants must provide an indication of the current average and peak footfall to give an indication of the likely increase in footfall.
- Applicants must confirm what the footfall figures are based on – e.g. from business case, % increase of existing footfall or other comparable business.
- The applicant should describe any seasonal variation to the footfall – e.g. what % reduction in footfall might be expected in the autumn/winter.
- Note – footfall figures can be treated as confidential if necessary.

	Average Hourly Footfall	Peak Hourly Footfall	Opening Hours
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			
Sunday			



Sequential Assessment

If the proposal is considered likely to attract significant footfall the applicant will be required to complete a sequential site assessment. Applicants must demonstrate rigour in their search for alternative sites with an early and systematic assessment of sites. Applicants are strongly encouraged to contact the Strategic Planning and Development Team prior to submission to discuss the scope of the sequential assessment including which sites may need to be assessed.

The sequential assessment must set out the following

- The minimum requirements for the proposal including scale, floor area and format must be stated including any flexibility there may be.
- Detail (preferably in a table format) the sites that have been considered, including their address. For each site the availability and suitability with reference to the minimum requirements must be given.

Analysis of Impacts on Town Centres

If the proposal is considered likely to attract significant footfall the applicant must consider what the potential impacts on the town centre maybe from the proposal and if these are considered to be significant.

Large retail applications will likely be required to complete a full Retail Impact Assessment to demonstrate the impacts on the network of town centres. The applicant or the agent completing the Retail Impact Assessment should contact the Strategic Planning and Development team at the earliest opportunity to discuss this.

For small retail and other applications (leisure, office, entertainment/cultural and community facilities) the applicant is required to submit a statement setting out the potential impacts on town centre vitality and viability. As a minimum the statement should cover the following points:

- Describe in full the use proposed including any ancillary element (i.e. retail, café/restaurant, retail services, and leisure).
- Describe the types of goods or services to be sold/offered or the type of activity that will take place, e.g. gifts/cards, food retail, clothes, type of café/restaurant, takeaway, gym facilities.
- Set out what floor areas are proposed for each use. If the proposal is an extension set out what the increase in floor area compared to the existing floor area is.
- Explain how the business will operate, e.g. opening hours, seasonal openings, for café/restaurants how many covers anticipated, managed bookings etc.
- State what the target market and catchment for the business is. (i.e. is the catchment neighbourhood, town, Moray, or wider)
- State if there is a sector deficiency within the town, area or within Moray.
- Based on the likely catchment consider the impact the proposal could have on town/local/commercial centres within that area
 - For each centre in the catchment what businesses fall within the same category as the proposal? E.g. comparison retail (clothes, gifts, chemists, etc.) convenience (food, newsagents, etc.), bulky goods (furniture, appliances, etc.), retail services (hairdressers, travel agents, post offices, repairs/dry cleaning, etc.) and leisure (cafes, clubs, takeaways, cinema, etc.).
 - What trade could be diverted from these businesses within town centres to the proposal (This should be considered collectively for the type of business category rather than what trade would be diverted from individual businesses).
 - Consider what in-direct impacts there may be on other types of retail/leisure activities, e.g. visiting a café in a town centre may result in combined trips to other shops which wouldn't occur visiting a café in an out of centre location.



- What impacts could trade diversion have in terms of lower town centre footfall, shop vacancies, and the appearance of the town centre?
- Considering the above describe the likely impacts on the town centre and the significance of these to the vitality and viability of town centres. This should be a concluding summary of the above points and give a view on how the town centre could be impacted and if the impacts are considered to be significant.

Any commercially sensitive information can be provided separately and treated confidentially.



EP7 FORESTRY, WOODLANDS AND TREES

Trees and Woodland Removal/Compensatory Planting

Policy EP7 Forestry, Woodlands and Trees of the Moray Local Development Plan (MLDP) 2020 seeks to protect the amenity, landscape, biodiversity, economic and recreational value of Moray's woodlands. There is a strong presumption in favour of protecting woodland resources and the start point should be that roots are protected and houses are built at a safe distance respecting roots and mitigating potential storm damage. Policies PP1 Placemaking and DP1 Development Requirements also require proposals to retain, incorporate and/or respond to the natural environment.

For the purposes of Policy EP7, "woodland removal" under Part (c) is defined as the permanent removal of 0.1ha or more of woodland for the purposes of conversion to another type of land use. Proposals affecting single tree(s) or trees covering an area less than 0.1ha will be considered against Part (b).

Tree Survey and Tree Protection Plan

Where trees exist on, or border a development site, a Tree Survey and Tree Protection Plan must be provided. Tree Surveys and Tree Protection Plans for planning applications must be carried out in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction – Recommendations) by a suitably qualified and insured arborist. Further information on the requirements are summarised in the Policy Guidance Note on Trees and Development within **Policy EP7**.

An Arboricultural Method Statement will also be required if construction or the laying of hard surfaces is allowed within the Root Protection Area of a tree, or if any part of the development process is likely to detrimentally affect any retained trees.

Tree Removal

The design of a proposed development must be approached with the retention of healthy trees as a starting point. Proposals must retain healthy trees and incorporate them within the proposal, unless it is technically unfeasible to retain these. This means that the removal of trees will only be permitted where key infrastructure such as pipes, power lines, access (including visibility splays), electric vehicle charging etc. is required to facilitate the development and it has been satisfactorily demonstrated by the Applicant that this cannot be achieved in any other way and the main element of the design has incorporated healthy trees into the proposal as far as possible.

Woodland Removal

The Scottish Government's **Control of Woodland Removal Policy (CWRP)** sets out criteria for determining the acceptability of woodland removal. Where a development involves the permanent removal of woodland, the Applicant must demonstrate the significant and clearly defined additional public benefits that would be achieved. Provision of compensatory planting is not a sufficient justification for woodland removal. In operating this policy, Moray Council does not include housing development within the definition of public benefits, sustainable economic growth or rural/community development.

Compensatory Planting

Where compensatory planting is required for tree or woodland removal and is being provided on site or on an alternative site in Moray within the Applicant's control, a Compensatory Planting Plan, including details (species, specifications, numbers) of the proposed planting and its maintenance over the entire lifespan of the development, must be submitted for approval by Strategic Planning & Development and, in response to woodland removal, Scottish Forestry. Careful consideration should be given to siting of planting to ensure it does not constrain any potential future development of the site.



Should it be evidenced that compensatory planting cannot be provided on site or an alternative site in Moray within the Applicant's control, a commuted payment will be made to the Planning Authority to deliver compensatory planting and recreational greenspace. The sum will be calculated based on the area of trees/woodland being removed and payment will require to be made through the Strategic Planning and Development Team (Developer Obligations) in advance of any consent.

Ancient Woodland

Where a woodland is identified on the Ancient Woodland Inventory (AWI) as a category other than Ancient Woodland (1a and 2a - the removal of which would not be supported under Policy EP7 (c)), the value and characteristics of the woodland will require to be demonstrated by the Applicant. This will be required to be in the form of a detailed Woodland Survey carried out at the appropriate time of the year by a suitably qualified consultant with experience of woodland habitat surveys. The survey must include a National Vegetation Classification (NVC) Survey, map, site community floristic descriptions, target notes and locally important site features, as well as an assessment of the role and importance of the wood's connectivity to the wider woodland network. The Council, in consultation with NatureScot, will determine whether the woodland meets the characteristics of Ancient Woodland.



EP10 LISTED BUILDINGS

Policy EP10 Listed Buildings sets out that “Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building(s). The resulting development should be of a high design quality protecting the listed building(s) and their setting and be the minimum necessary to enable its conversion and re-use”. This means that whilst enabling development to assist the retention of listed buildings is supported in principle, the new development is to address the conservation deficit as opposed to funding the restoration. Preservation of the setting of the listed building remains a key consideration in these circumstances.

The ‘conservation deficit’ is the gap between the costs of repairing and converting a listed building(s) to bring it back into use and the market value of the listed building once the works are complete. For example, where the cost of repairing the building is £500k and the end market value after restoration is £350k, the conservation deficit is £150k.

Applicants must submit an evaluation including a detailed financial appraisal and plans to identify the conservation deficit. The following information is expected to be submitted by the applicant:

- Condition survey of the listed building (in the form of a conservation statement or conservation management plan) identifying the desired reasonable level of conservation to sustain the building in the long term;
- Options appraisal comprising an assessment of alternative solutions to secure the buildings future (e.g. grant funding, charitable ownership);
- Assessment of cost of repairs and how future maintenance liabilities will be met;
- Assessment of market value of the building in current and repaired condition to calculate the conservation deficit;
- Detailed scheme design for the preferred option (i.e. this includes the proposed development but are there also plans drawn up for the listed building?);

- Development appraisal to demonstrate the financial contribution the proposed development makes to the conservation of the building; and
- Delivery plan demonstrating how the conservation benefits will be secured in a timely manner.

When preparing the development appraisals for the listed building and the enabling development, the applicant is expected to use the Applicant Viability Data (AVD) form which can be found within the Appendices of the Developer Obligations Supplementary Guidance. This includes the level of information and format required which is necessary to assess appraisals. The development appraisal will need to be verified by the District Valuer (DV) who is independent of the Council and the cost of the DV will be borne by the applicant.

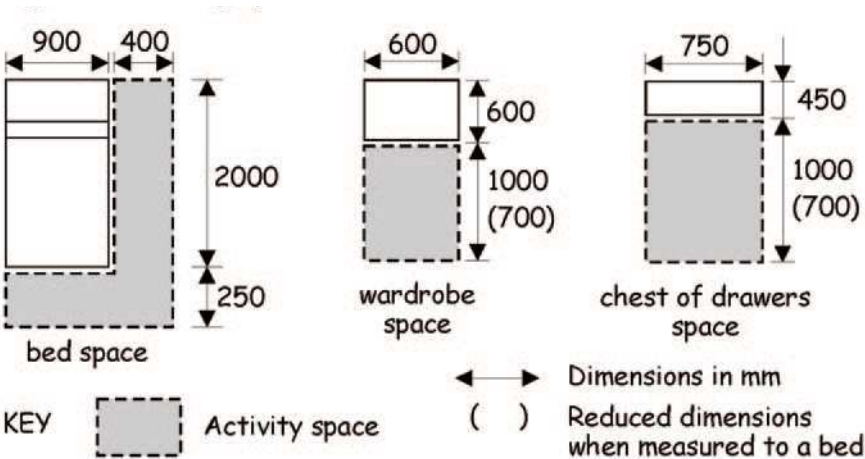
Enabling development will be restricted to the level of the conservation deficit. This reflects Historic Environment Scotland’s (HES) position that enabling development should be controlled to reflect the gap/deficit.



PP1, PP3 AND DP1 MINIMUM BEDROOM SIZE

The Scottish Government’s Building Standards Technical Handbook: Domestic provides guidance on achieving the standards set out in the Building (Scotland) Regulations 2004. To provide clarity on what constitutes a bedroom for the purposes of calculating developer obligations and parking standards, section 3.11 of the Handbook will be applied in the determination of planning applications as this sets out the minimum space standards of a room (referred to as an apartment in the Handbook). This provides a consistent approach to the determination of planning applications and implementation of MLDP policies.

Section 3.11 refers to ‘apartments’ which for the purposes of planning is interpreted as ‘rooms’. A bedroom should be a size that will accommodate at least a single bed, wardrobe and chest of drawers along with associated activity space as this is the minimum furniture provision that is to be expected in such a room. The following dimensions are set out in section 3.11 of the Handbook (note: dimensions are in millimetres):



Planning applications that propose offices/studies, play rooms, gym/fitness rooms, etc. will be counted as a bedroom where the room is capable of accommodating the denoted pieces of furniture and their associated activity space. Internal wardrobes will be counted as a wardrobe with associated activity space as set out above. Where a room does not meet the above space requirements it will be assessed as proposed by the applicant.

The size and shape of a room can vary and an assessment will be made by the Development Management case officer on a case by case basis as to whether the room meets the minimum space requirements to be counted as a bedroom. This will inform the level of developer obligations to be sought and parking requirements for the proposal. This will ensure that the actual impact of the proposal on infrastructure is mitigated and that adequate parking is provided for new developments thereby minimising on-street parking which can visually dominate the streetscene and negatively impact on the character of the place to comply with MLDP 2020 PP3 Infrastructure and Services and DP1 Development Principles and associated Appendix 2 Parking Standards.

