

AGENDA ITEM 7

APPENDIX 2B

2020/0293/DET

**REPRESENTATIONS
GENERAL**

From: [Colin Sandilands](#)
To: [Planning Online](#)
Cc: ["Jamie Pyper"](#)
Subject: Representations: Applications APP/2020/2284 and APP/2020/2286 Bridge of Gairn, Ballater, Aberdeenshire [STRON-LIVE.FID282663]
Date: 07 December 2020 11:38:09
Attachments: [Letter to Aberdeenshire Council December 2020 FINAL\(2\).pdf](#)
[Letter to Aberdeenshire Council.PDF](#)

For the attention of Mr Neil Mair

Dear Sirs

Our Client: Mr R.W. Mitchell, Old Mill, Bridge of Gairn, Ballater, Aberdeenshire
Representations: Applications APP/2020/2284 and APP/2020/2286 Bridge of Gairn, Ballater, Aberdeenshire

We act on behalf of Mr R.W. Mitchell, the owner of the Old Mill, Bridge of Gairn, Aberdeenshire. Our client wishes to make representations in relation to the two planning applications identified above. As such, we enclose:

1. A letter from ourselves, dated 7 December 2020, summarizing our client's position; and
2. A letter from nineteen47, dated 4 December 2020, setting out our client's position in more detail, together with a copy of our client's Land Certificate.

A hard copy of the attached correspondence is being posted.

As noted in our letter, we would be grateful if any communication could, in the first instance, be directed to our client's planning consultant, Mr Pyper of nineteen47.

Regards

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Our Ref:

CS/PS MIT.116.1

Date:

7 December 2020

For the attention of: Mr Neil Mair

Chief Planning Officer
Aberdeenshire Council
Viewmount
Arduathie Road
Stonehaven
AB39 2DQ

By email and post

Dear Sir/Madam

Mr R W Mitchell

Representations: Applications APP/2020/2284 and APP/2020/2286 Bridge of Gairn, Ballater, Aberdeenshire

We act on behalf of Mr R W Mitchell, the owner of the Old Mill, Bridge of Gairn, Ballater. Our client's property is a residential home immediately to the North of the application sites.

Our client wishes to make representations in relation to the applications and has engaged ourselves and planning consultants, nineteen47, to assist with that. Please find enclosed a letter by nineteen47, dated 4 December 2020, setting out those representations in detail. Also attached is the title plan referred to in their correspondence.

As noted in the detailed representations, our client has limited comments in relation to application APP/2020/2284. His observations in relation to application APP/2020/2286, whilst set out more fully in the attached correspondence, can be summarised as follows:-

- The basis of the application, in terms of Criterion 9 of Policy 1 of the Local Development Plan is questioned.
- Our client is not opposed in principle to a new dwelling house being constructed on the site, but there are significant issues in terms of its relationship with his property which it is considered require to be addressed.
- In particular, it is considered that the proposed location of the new dwelling would both (1) lack an appropriate separation from our client's property and, (2) especially given its elevated location above the Old Mill, constitute an overbearing presence, impacting our client's privacy and casting significant shadows on his property.
- In this regard, the application lacks appropriate information concerning the relationship between the proposed dwelling and the Old Mill. Subject to consideration of any sectional drawings that may be provided to remedy this, it may be that a re-siting of the proposed dwelling in the order of

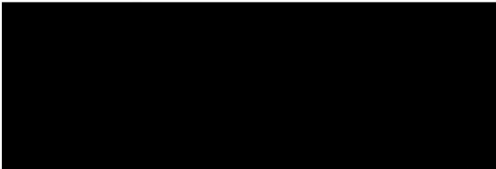
8 – 10 metres to the South West of its current proposed location would address our client's concerns.

- The extent of the applicant's land ownership has been incorrectly shown on the site location plan, creating an inaccurate picture of the relationship between our client's property and the proposed dwelling.

We would be grateful if these observations, more fully developed in the attached correspondence from nineteen47, could be taken in to account in any consideration of Applications APP/2020/2284 and APP/2020/2286.

Please direct any communication in relation to our client's representations to Mr Pyper of nineteen47 in the first instance.

Yours faithfully



Colin Sandilands

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Enc

JP/01/n9999

Chief Planning Officer
Aberdeenshire Council
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AB39 2DQ

FAO Mr. Neil Mair

4th December 2020

Dear Sir/Madam

Representations in respect of application APP/2020/2284 Erection of 3 Dwellinghouses and Detached Garages and application APP/2020/2286 Erection of Dwellinghouse and Garage - Bridge Of Gairn, Adjacent To Waterworks Bridge Of Gairn Ballater Aberdeenshire

nineteen47 has been instructed on behalf of Mr. R W Mitchell to submit representations in respect of the aforementioned applications which are currently under consideration by the Authority. Mr. Mitchell is the owner of The Old Mill which is a residential property located immediately to north of these applications sites, which he has owned since 1978. Mr. Mitchell has a number of observations to these applications, which it is respectfully asked are taken into consideration.

With regards to application APP/2020/2284 which proposes the erection of 3 dwellings, it is accepted that this is broadly consistent with Policy 1 of the Cairngorms National Park Local Development Plan 2015 which states inter alia that new housing development which adds to an existing rural group (three or more buildings) will be considered favourably where: a) they connect to, reinforce and enhance the character of the group integrating with existing built form, pattern of existing development; and b) do not add more than one third to the existing number of buildings in the group within the plan period (based on the size of the group on the date of plan adoption). This position is also reflected in Policy 1 of the emerging Local Development Plan (2020). Should the Local Planning Authority be satisfied that this particular application satisfies all normal planning considerations, then our client has no further comments to make in respect of these proposals which appear generally sympathetic to the local area.

In terms of application APP/2020/2286, which relates to the replacement of the existing Bothy with a new dwelling house (the replacement being stated in the application forms rather than the description of development as validated by the Authority), we have a number of observations which it is asked are taken into consideration.

As a point of principle, this application is made by the Applicant on the basis of the Bothy being an existing dwelling under the provisions of Criterion 9 of Policy 1 of the Local Development Plan. This states;

Proposals to replace existing housing stock will be supported where:

- a) the existing house is structurally unsound and incapable of rehabilitation, or is of non-standard construction; and*
- b) the existing house is not a listed building; and*

- c) *the new house incorporates the footprint of the original, unless an alternative adjacent site would minimise any negative environmental, landscape or social effects of the development*

In this regard, the fundamental requirement of this criterion is that the building to be replaced is an existing dwelling. Having been familiar with this building since 1978, our client has indicated that within this period, it has never been used as a dwelling and was most recently used as an ancillary domestic structure by the former occupiers of Gairn Cliffe who lived here until a couple of years ago when the property was sold and renovated for use as a holiday cottage. These former occupiers who moved to Gairn Cliffe in the mid 1960's only ever used the Bothy as a workshop for leatherwork and storage and the last known use as an independent dwelling is believed to be in the early 1960's when 2 elderly ladies resided here. On this basis, the use of the Bothy as a dwellinghouse has long since been 'abandoned' due to it not being used for these purposes for circa 60 years. The fact that there has been an intervening use and also the current condition which the applicant's agent has confirmed to be in a 'poor state of repair' all support this conclusion.

On the basis that the Bothy cannot be lawfully classified as a dwelling it therefore cannot be replaced and therefore the provisions of Criterion 9 of Policy 1 cannot apply.

Furthermore, as a companion to Policy 1, the Local Planning Authority has produced the Cairngorms National Park Local Development Plan Non-Statutory Planning Guidance which provides further clarification on the interpretation of this policy. Paragraph 35 of this document states;

The replacement house should be similar in scale to that which it replaces and the setting of the new house should be similar to that of the existing house in terms of orientation and distance from road unless individual site conditions suggest that another position (within the site boundaries) would create a better landscape fit. [emphasis added]

As currently presented, the proposals do not observe this guidance which although non-statutory, is a material consideration and should be given weight in the event that the Local Planning Authority were prepared to consider this to be a replacement dwelling, regardless of our observations on this point. Furthermore, the existing site boundaries associated with the Bothy are clearly defined and the proposed dwelling is outside of this curtilage on adjacent agricultural land so as well as a new 'replacement' dwelling, the Applicant is also seeking a change of use of land which is not inferred in the description of development.

Instead, it is considered that Criterion 8 of Policy 1 is more applicable to this existing building, as it relates to conversions. This policy states;

Conversion of existing traditional and vernacular buildings will be supported where:

- a) *it is demonstrated that the building is capable of the proposed conversion works; and*
- b) *it maintains the style and character of the original building in terms of form, scale, materials and detailing, where they contribute positively to the context and setting of the area.*

As submitted, the proposals do not conform to this policy as it is not intended to re-use the existing building and it has not been demonstrated that it is capable of conversion.

It is therefore the case that as matters stand, the proposals are contrary to the Development Plan with notable conflict with the provisions of Policy 1.

¹Hughes v Secretary of State for the Environment, Transport and the Regions

Notwithstanding this, our client is not against the principle of a new 'replacement' dwelling per-se if the Local Planning Authority wish to support such proposals although as presented, there are a number of significant concerns which would need to be addressed in order to ensure a satisfactory relationship with the Old Mill is achieved.



Figure 1 The Old Mill viewed from the south



Figure 2 View towards application site from the north

As can be seen from Figures 1 and 2, the Old Mill is located in a basin with the Application Site being located at a higher level. The roof of the Bothy is just visible in the top right of Figure 2 and the Old Mill is on the left of this image.

The relationship of the proposed dwelling with the Old Mill has not been robustly considered or justified in the application submission. However, we have sought to very crudely show this intended arrangement in Figure 3 below;

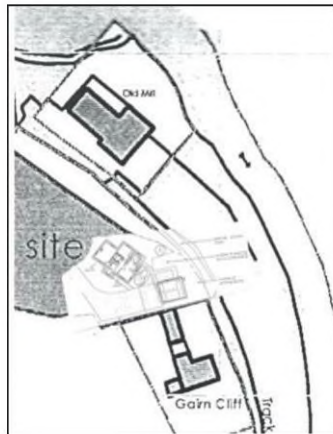


Figure 3 Proposed Dwelling imported onto site plan

It is respectfully suggested that the Applicant demonstrates this relationship in further detail, accounting for the difference in levels, by including a section. In terms of the current scheme, the proposed relationship between the new dwelling and the Old Mill would be unacceptable not just in terms of the minimal separation distances, but also the resulting overbearing impact it would have given it would be sited at a significantly higher level, as well as loss of privacy, with the proposed north eastern elevation orientated towards our clients' private gardens.

When the nearby waterworks to the north west were undertaking construction activities a number of years ago, they temporarily sited mobile cabins in the field in which the proposed dwelling has been shown and this cast a noticeable shadow on the Old Mill and its grounds during winter months. It is

therefore anticipated that the proposed dwelling, where shown, would have a similar negative impact on the daylight/sunlight levels of our client's property due to it being located due north and at a lower level. The Applicant should therefore consider undertaking a daylight/sunlight analysis with any revised proposals that are submitted.

If the Local Planning Authority are minded to support a new dwelling, it is essential that it is re-sited to the south west of the location shown and we would suggest a distance in the order on 8 to 10 metres to achieve a satisfactory relationship with the Old Mill which appears to have been disregarded in the current scheme. This is particularly evident as the relationship between the proposals and the Old Mill has not been shown on any of the plans. We would though wish to retain judgement on this matter until we have been consulted on any new layout plans and sections which seek to improve this relationship.

In summary, our client has no observations in respect of the application for 3 new dwellings (reference APP/2020/2284) but has a number of concerns in respect of the proposals to replace the Bothy (reference APP/2020/2286). Whilst it has been shown that the proposals have failed to correctly interpret the provisions of Policy 1 of the Local Development Plan, our client is not against a new dwelling pe-se, but is understandably concerned about the impact that the submitted proposals would have upon the residential amenity of his property, the Old Mill. It is therefore requested that substantial modifications are sought and the relationship with the Old Mill properly justified, including the submission of detailed sections. In these circumstances, where there is a clear conflict with planning policy, this request is considered to be wholly reasonable and if officers are prepared to support a new dwelling, it is hoped that the concerns raised in this letter are given significant weight.

As a final observation, we note the extent of the Applicant's land ownership has been shown on the site location plan (reference 2018-108/P17). Please find attached my client's Land Registry Title Plans which show the extent of his ownership. This shows that the land ownership associated with the Old Mill is more significant than the Applicant's Agent has shown on the submitted plans and it is essential that this is corrected, not least because as matters stand, the application including land ownership certificates as submitted is unsound. It also misrepresents the application proposals and their relationship to my client's property, the extent of which being more significant and closer to the proposed dwelling than has been shown.

If revised plans are submitted to the Local Planning Authority, it is asked that my client is re-consulted so that we have the opportunity to reconsider the proposals and determine whether a more acceptable relationship with the Old Mill has been achieved.

Yours faithfully



Jamie Pyper
Director

jamie.pyper@nineteen47.co.uk

Enc. Title Plans – The Old Mill, Ballater



LAND REGISTER
OF SCOTLAND

Officer's ID / Date

6913
21/2/2019

TITLE NUMBER

ABN137752



ORDNANCE SURVEY
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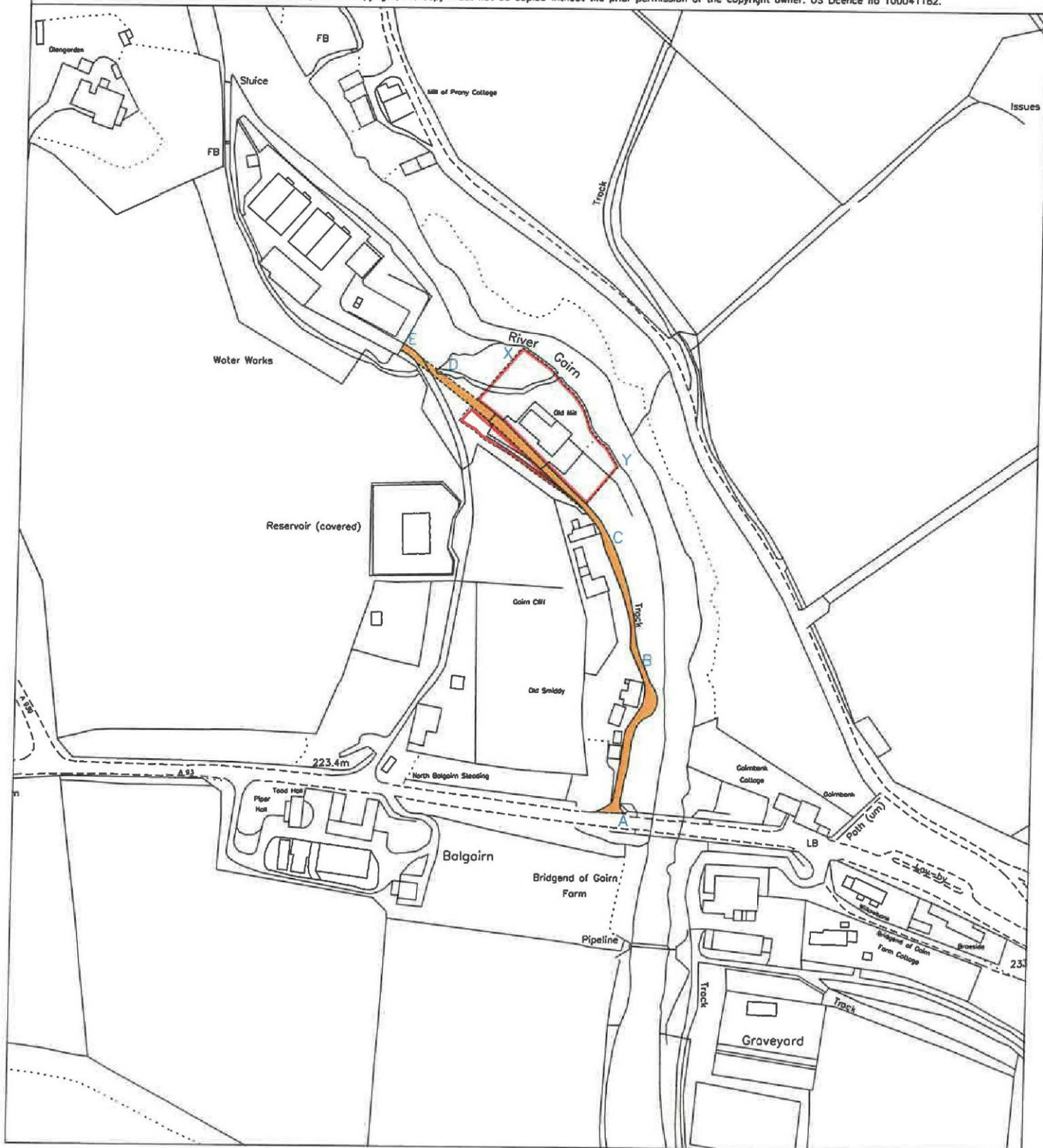
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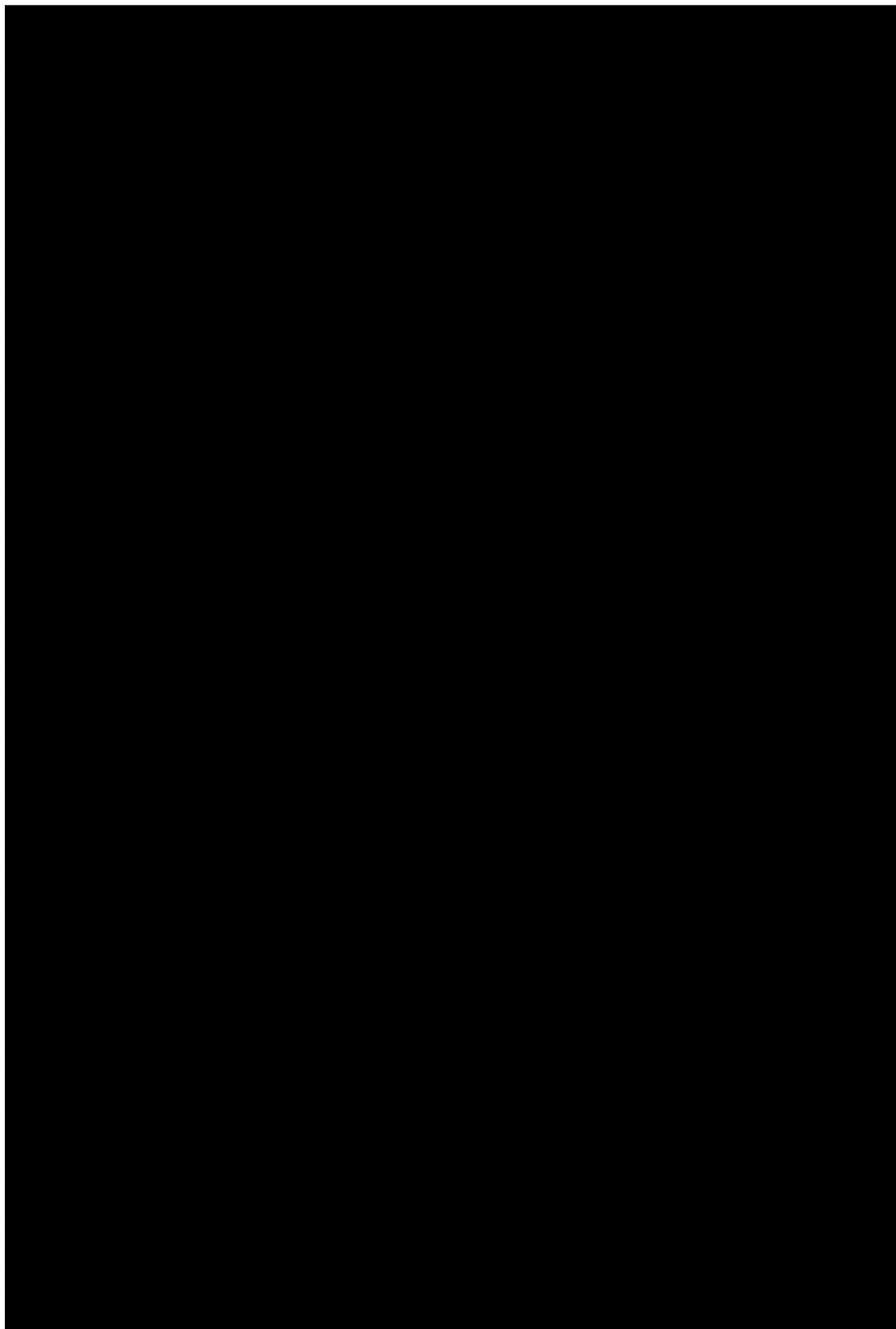
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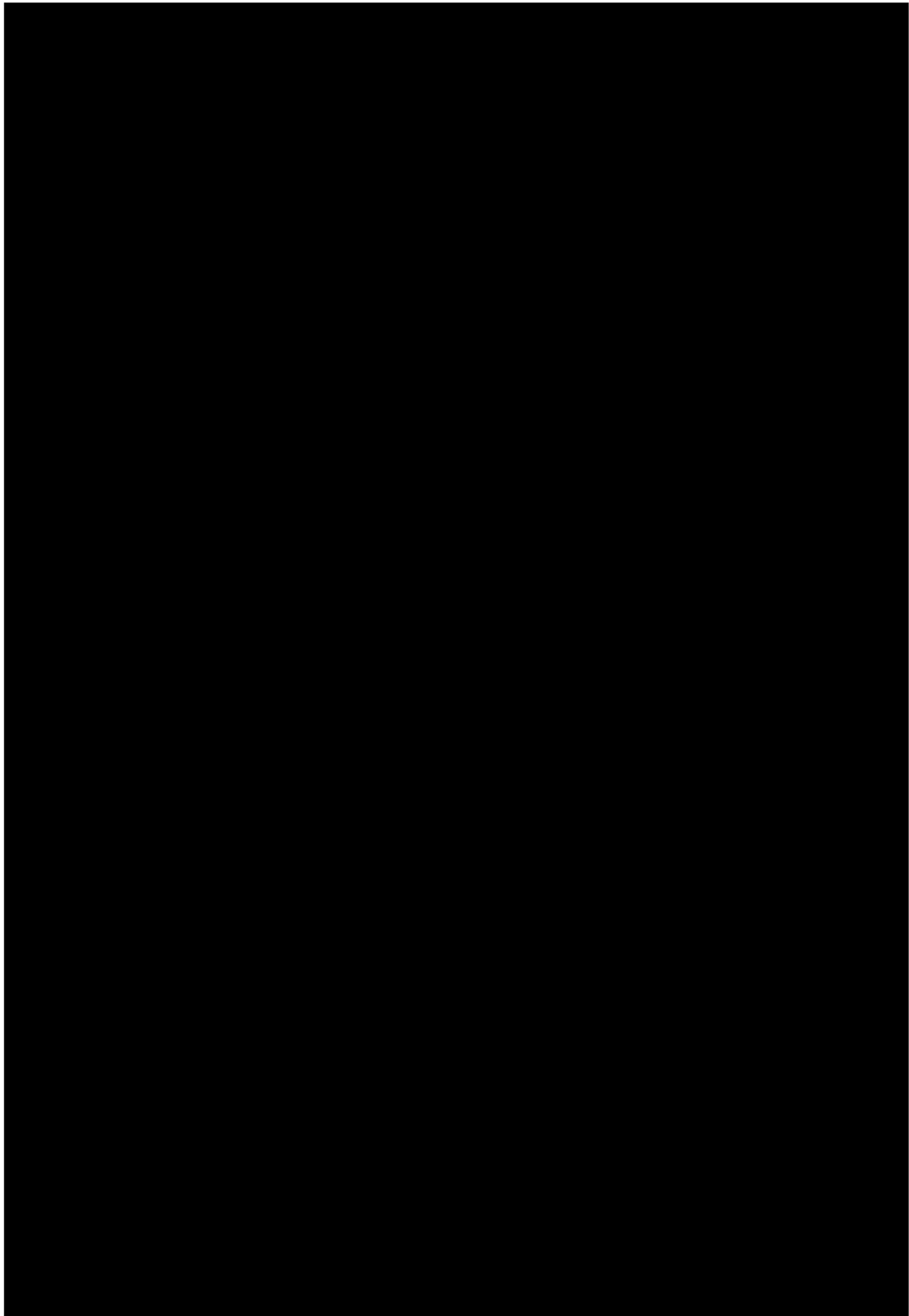
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The first of these is the fact that the majority of the population is now living in urban areas. This has led to a concentration of people in a few large cities, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these cities, the population has grown so rapidly that there is no room for everyone. This has led to the development of slums, which are often unsanitary and overcrowded. Another problem is the lack of adequate infrastructure. In many of these cities, the roads are poor and the public transport system is inadequate. This makes it difficult for people to get to work or school. Finally, there is the problem of pollution. In many of these cities, the air is polluted by factories and cars, which can lead to a number of health problems.

The second of these problems is the lack of adequate education. In many of these cities, the schools are overcrowded and the quality of education is poor. This means that many of the children who live in these cities are not getting the education they need to succeed in life. This is a serious problem, as it means that many of these children will not be able to find work when they grow up. This is a cycle that is difficult to break.

The third of these problems is the lack of adequate health care. In many of these cities, there are not enough doctors or hospitals. This means that many of the people who live in these cities are not getting the health care they need. This is a serious problem, as it means that many of these people will die from preventable diseases. This is a cycle that is difficult to break.

The fourth of these problems is the lack of adequate employment opportunities. In many of these cities, there are not enough jobs. This means that many of the people who live in these cities are unemployed. This is a serious problem, as it means that many of these people are not able to support themselves or their families. This is a cycle that is difficult to break.

The fifth of these problems is the lack of adequate social services. In many of these cities, there are not enough social services. This means that many of the people who live in these cities are not getting the help they need. This is a serious problem, as it means that many of these people are not able to live decent lives. This is a cycle that is difficult to break.

The sixth of these problems is the lack of adequate political participation. In many of these cities, the people are not able to participate in the political process. This means that the government is not taking their needs into account. This is a serious problem, as it means that the government is not doing what is best for the people. This is a cycle that is difficult to break.

The seventh of these problems is the lack of adequate environmental protection. In many of these cities, the environment is being destroyed. This means that the people who live in these cities are not able to live in a healthy environment. This is a serious problem, as it means that the people who live in these cities are not able to live decent lives. This is a cycle that is difficult to break.

