

DESCRIPTION OF PROPOSAL

Planning permission is sought to erect 6 houses on the site. A new shared access is proposed from Kellas Road. All the proposed houses are substantial 2 storey buildings, each with 4 bedrooms and detached double garages. The house designs are similar and are traditional in style, with steeply pitched roofs and details such as exposed rafters.

Drumsturdy pond to the south will not be affected by the housing development and is to be maintained as a wildlife area. In order to permit houses to be constructed it is proposed to divert and culvert a section of the open lade which runs through the site.

Abertay University carried out a Flood Impact study on behalf of the applicants, as the site adjoins the Fithie burn to the west and partially floods although not at the locations where the houses are proposed. The Study considers flooding based on a 1 in 200 year return period, a 20% addition for climate change and a free board of 0.5 metres for all new dwellings.

The submitted study concludes that the development would not create any adverse impact subject to earth works being carried out on the site (which would result in the removal of some trees).

Tree Reports have been provided to cover 80 significant trees or groups of trees on the site. The report indicates that a large number of trees will need to be felled for arboricultural reasons (32 in total). It is proposed to fell a further 12 trees to accommodate the development, mainly to form a footway along Kellas Road and the flood alleviation measures along the Fithie Burn. It is proposed to remove a further number of self seeded unsurveyed trees at the Drumsturdy pond to improve its ecological value. It is proposed to retain the remainder of the existing trees on the site and to augment them with new planting.

An Ecological Survey of the site was submitted. It concluded that although there will be negative impacts with the loss of marginal vegetation along the mill lade and temporary loss of bank vegetation at the Fithie Burn, that the nature conservation value of the site can be enhanced by improving the

ecology of the pond area and creating wetland habitat along the Fithie Burn and introduction proper management of these areas.

The Ecological Survey has more recently been supplemented with a Landscape Assessment of the Fithie Burn and Drumsturdy Pond which states that the development can add to the biodiversity of the area by creating a wetland area alongside the Fithie.

A Bat survey was submitted which found no bat roosts within the site or potential roosts within the trees on the site. It concludes that as long as the pond is retained and free felling is minimised then its value as a foraging habitat will be maintained and there will be no significant impact on bats locally.



SITE DESCRIPTION

The site comprises some 1.25 hectares of ground between Kellas Road and the Fithie Burn, just north of Baldovie Toll. It consists of 2 distinct properties, one being an unmaintained field and the other being a disused curling pond. The site is fairly level and low lying, and is traversed by a mill lade (partly underground) feeding from the Fithie Burn. This lade also feeds the pond to the south of the site. There are a number of trees on the site principally along the banks of the Fithie and the mill lade and around the pond. Most of the trees are self seeded.

To the west of the site on the opposite bank of the Fithie is a housing development at Peebles Drive. To the south west are Riverside Cottage and a ruined mill building. To the south, on the opposite side of Drumsturdy Road are houses. To the east is the Kellas Road and to the north east are

dwellings including the listed Pitkerro Mill building. Although close to the urban area the site retains a rural character.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 2005

The following policies are of relevance:

In the Local Plan the site is allocated as a greenfield housing site by virtue of Proposal 68A. This proposal states that the site provides an opportunity for up to 6 upper market family houses in spacious plots subject to the satisfactory conclusion of the following matters:

- a Flood Impact.
- b Impact on aquatic environment of the Fithie Burn.
- c Impact on Drumsturdy Pond, improvement of its nature conservation value and proposals for future maintenance.
- d Provision of pedestrian and cycle access between the site and Drumsturdy Road.

Policy 4 Design of New Housing and Appendix 1 set out standards for the design and layout of suburban developments.

Policy 20 states that developer contributions towards the cost of infrastructure provision both on and off site will be sought where necessary and appropriate.

Policy 55 encourages good design.

Policy 70 seeks to protect semi natural greenspaces of local nature conservation importance, such as the Fithie Burn corridor and Drumsturdy Pond. Policy 72 Trees and Urban Woodland requires new development to have regard to existing healthy mature trees and encourages their retention.

Policy 75 requires that all "development proposals must be accompanied by a Sustainable Drainage Scheme". Policy 76 contains

a presumption against development in areas of high flood risk (equivalent to the 1:200 period).

With respect to accessibility and transportation matters, Policies 81, 82 and 83 seek to promote ease of access by pedestrians, cyclists and public transport users and to enhance facilities and infrastructure for these sustainable modes of travel. With regard to roads matters, the Plan seeks to reduce the dominance of the private car and promote the use of alternative modes.

Scottish Planning Policies, Planning Advice Notes and Circulars

SPP7 Planning and Flooding is of relevance in this instance. It requires Planning Authorities to take flood risk into account in the exercising of their development control functions.

Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application.

SUSTAINABILITY ISSUES

The following sustainability policy implication arises from this application:

The site is on the edge of the urban area and is not served by footways or street lighting. There is an issue about the accessibility of this site to all modes of transport and this issue is discussed in greater detail below (assessment of the development against Policies 81,82 and 83 of the Local Plan).

The area adjacent to the Fithie Burn and Drumsturdy Pond are sites of importance for nature conservation and a wildlife corridor. It is also an area susceptible to flooding. These issues are discussed in greater detail below (assessment of the development against Policies 70 and 76 of the Local Plan).

SITE HISTORY

There is a history of refusals of planning permission for the development of this site for housing. On the main part of the site (excluding Drumsturdy pond) consent was refused

in 1981, 1987, 1991 and 1992 and an application was withdrawn in 1995. The reason for refusal of permission related to the fact that the site was allocated as open countryside in the then adopted local plan. On the curling pond site an application for a residential development was refused in 1986 for similar reasons. A subsequent application for a public house was refused in 1987 on grounds that it contravened the Councils adopted policies relating to the location of licensed premises. This decision was appealed and the appeal was dismissed.

More recently applications to develop the current site for 6 houses were refused in 1998 and withdrawn in 2001,2002 and 2004. The problems with the various proposals were that satisfactory proposals for additional tree planting and the maintenance of Drumsturdy pond had not been submitted and that the development therefore contravened the Local Plan and could detract from the visual amenity and nature conservation value of the area.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and 7 letters of objection were received from adjoining residents. Their concerns are:

- 1 The site is in an area subject to severe flooding and the proposed development would add to flooding problems experienced by downstream properties. The water table is high and the ground is frequently saturated.
- 2 The site is of high nature conservation value and the construction of houses and the felling of trees would adversely affect the nature conservation value of the site.
- 3 A modern development would detract from the visual amenity of the area characterised by older buildings (1 of which is listed) and a wooded setting.
- 4 The proposed access would add to traffic safety and congestion problems at the junction of Baldovie Road, Kellas Road and Drumsturdy Road.
- 5 The development is contrary to the Local Plan.

CONSULTATIONS

The Scottish Environment Protection Agency has been consulted and has written to confirm that they have no objection to the proposed development. They state that the proposed measures will increase the available floodplain storage volume and should ensure that the proposed development will not increase the existing risk of flooding to Riverside Cottage which is located immediately downstream of the site. They note that it is proposed to realign the existing lade and convey flows within concrete pipes and recommend that consideration is given to conveying flows in an open channel in order to remove the risk of blockage of the pipes and provide environmental benefit.

The Council's Forestry Officer considers that the row of Douglas Firs to the north of Drumsturdy Pond should be retained. He has requested planning conditions to ensure the protection and management of trees to be retained and the provision of new planting on the site.

The Head of Environmental Health and Trading Standards has pointed out that there may be potential contamination issues associated with the site. He considers that a standard planning condition should be imposed if permission is granted.

The Countryside Ranger has noted that otters were present at the Fithie Burn in the past and suggests that this should be taken into account in considering the proposed development.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

The principle of developing this site for housing is established by Proposal 68A of the Local Plan. However the development of the site is permissible only on the basis of strict criteria as follows:

- a Flood Impact.
- b Impact on aquatic environment of the Fithie Burn.
- c Impact on Drumsturdy Pond, improvement of its nature conservation value and proposals for future maintenance.
- d Provision of pedestrian and cycle access between the site and Drumsturdy Road.

In terms of flood impact, part of the site lies within the flood plain of the Fithie and concerns about the potential for flooding in this area have been raised by objectors. In addition there is a mill lade running through the site. The applicants commissioned a Flooding Risk Study in connection with their proposals. This study indicates that subject to certain works there would be no increase in flooding risk as a result of the proposed development. These works involve the lowering of an area of ground (and the consequent removal of some trees and shrubs alongside the Fithie) and the formation of a new bund at the south west corner of the site as well as the raising of the finished floor level of some of the houses.

This Department has considered the applicants Flooding Risk Study and is satisfied that if the proposals are implemented the proposed houses will not flood and there will be no increased risk of flooding of downstream properties.

SEPA have been consulted and do not object to the proposed development. They have raised an issue about the culverting of the lade suggesting that it might be better left open. However the lade is already culverted for most of its length so there is already a risk of blockage. Indeed the proposals for a new and extended culvert are likely to ensure that there will be better future maintenance of this facility.

In terms of the aquatic environment of the Fithie Burn, although there will be temporary disturbance during the works to carry out flood alleviation measures, the applicants Ecological Study states that the creation of a new wetland habitat at this location will

enhance the ecology of this area. This matter is proposed as a planning condition should Members be minded to approve the proposed development.

The issues concerning Drumsturdy Pond relate to its water supply not being damaged, its nature conservation value being improved and proposals being advanced for its future maintenance.

The proposed development will not alter the water supply to the pond. The lade which runs through the site and feeds the pond is culverted for a distance of almost 100 metres at its northern end and is open for the remaining 60 metres as it traverses the site. It is proposed to culvert a further 38 metres to allow the houses to be built. It is not considered that this further section of culverting will impact on the water supply to the pond. The inlets and outlets to the pond lie outwith the application site.

Proposals for the improvement of the ecological value of the pond and its future maintenance are set out in the Ecological Report. These include removing some self seeded non native trees to allow more light to get into this area and significant new planting of native species of shrub and low-growing trees, clearing vegetation from the pond and reprofiling its slopes to encourage a greater range of swamp and aquatic communities and finally establishing a management plan for its future maintenance.

It is considered that the implementation of these recommendations will ensure that the concerns set out in Proposal 68A will be satisfactorily addressed.

The final subsection of Proposal 68A requires the provision of pedestrian and cycle access between the site and Drumsturdy Road. Proposals for a lit footway are submitted as part of this application and this matter can be covered by a planning condition should Members be minded to approve the proposed development.

In terms of Policy 4 of the Local Plan, it is considered that the design and layout of the proposed development is satisfactory and the proposal easily meets the suburban standards set out in Appendix 1.

Policy 20 states that developer contributions towards the cost of infrastructure provision both on and off site will be sought where necessary

and appropriate and Policy 55 encourages good design. In this case the design of the proposed development is satisfactory and the developers have offered to construct a lit footway from the application site to Baldovie Toll to serve the development. This matter can be covered by a suspensive condition should Members be minded to approve the application.

Policy 72 Trees and Urban Woodland requires new development to have regard to existing healthy mature trees and encourages their retention. The proposals are satisfactory in this regard and these matters can be dealt with by planning condition should Members be minded to approve the application.

Policy 75 requires that all "development proposals must be accompanied by a Sustainable Drainage Scheme". The proposals in this regard are satisfactory.

Policy 76 contains a presumption against development in areas of high flood risk. This matter has already been considered in the assessment of the proposals against Proposal 68A of the Local Plan and it was concluded that there would not be an increased risk of flooding as a result of the proposed development.

With respect to accessibility and transportation matters, Policies 81, 82 and 83 seek to promote ease of access by pedestrians, cyclists and public transport users and to enhance facilities and infrastructure for these sustainable modes of travel. With regard to roads matters, the Plan seeks to reduce the dominance of the private car and promote the use of alternative modes. These matters have been considered in the context of Proposal 68A of the Local Plan and satisfactory provision for access to the site has been made.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

The other material considerations to be taken into account are as follows:

1 The Concerns of Objectors

Concerns about potential flooding, tree felling and the impact of the development on nature conservation have been considered in the context of the

assessment of the development against Proposal 68A of the Local Plan and it has been concluded that there will not be an adverse impact. It is also considered that the proposed development complies with the adopted Local Plan.

Concerns that a modern development would detract from the visual amenity of the area characterised by older buildings (1 of which is listed) and a wooded setting are not accepted. The principle of developing this site is already established in the Local Plan and there are already modern dwellings to the north and south of the listed Pitkerro Mill. The density of the proposed development proposed is very low and apart from the proposed houses on Plots 1 and 2, the remainder of the development will be very well screened from public view. The enhancement of Drumsturdy pond will make a positive visual contribution to the area.

Despite the concerns of objectors about traffic congestion and safety, the access proposals are considered to be satisfactory subject to the provision of a footway along Kellas Road. It is not considered that the addition of traffic from 6 new houses will have any significant impact on problems currently being experienced at this location.

2 The Views of Consultees

The views of the Scottish Environment Protection Agency on the flood risk implications of the development have been taken into account both in the submission of a Flood Impact Study by the applicant and the Council's assessment of that report. SEPA do not object to the development and it is considered that planning conditions can be imposed to ensure that the proposed flood prevention measures are properly implemented should Members decide to approve the application.

The views of the Council's Forestry Officer will be incorporated into planning conditions should Members decide to approve the application. Similarly a planning condition

can be imposed to ensure potential contamination issues are resolved.

Finally the views of the Countryside Ranger that otters may be present at this section of the Fithie Burn have been put to the applicants and they have responded that their ecologist found no presence of otters on the site. However the planning conditions relating to the treatment of the Fithie Burn can include a requirement that further surveys be carried out specifically on this issue and that if the presence of otters is detected then measures shall be put in place to ensure that the proposed development does not damage their habitat.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission. It is therefore recommended that planning permission be granted with conditions.

Design

The design and layout of the proposed houses are satisfactory. The character of the development is traditional in style and is appropriate for this low density development on the edge of the city.

CONCLUSION

The proposed development complies with the Development Plan and adequate provision has been made to ensure that there will be no adverse flooding implications, that the nature conservation value of the site is protected and enhanced and that safe access to the site is provided.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 Samples of all finishing materials shall be submitted for the prior written approval of the planning authority before any development commences. These shall in any case consist of wet dash harl for

walls with limited cast stone window surrounds and slate for roofs.

- 3 No dwelling house shall be occupied prior to the completion of a new lit footway on the western side of Kellas Road along the entire site frontage linking in to the existing network at Baldovie Toll and the provision of a bus stop adjacent to the development. The specification of this footway, street lighting and bus stop shall be submitted for the prior written approval of the Council before any work commences.
- 4 The site drainage shall observe SUDS principles, and full details thereof shall be submitted for the prior written approval of the Council before any work commences.
- 5 No trees or hedges within the site shall be felled other than those indicated for felling in the Tree Survey Reports dated 28/7/2006 and 19/1/2007 by Arboretum Internationale with the following exceptions:
 - a Trees nos 1175-1179 (5 Douglas Firs) shall NOT be felled but shall be retained.
 - b Trees nos 1168 - 1171, 1173, 1174 and 1187 shall be felled to permit the construction of the footway on Kellas Road.

The felling and pruning of existing trees shall be in accordance with BS 3998 and all felling and pruning shall be agreed on site with the Council (and a written record taken) before any development commences.
- 6 Details of the means of protection of trees and hedges to be retained in accordance with BS 5837:2005 shall be submitted to the Council for approval before any development commences, and approved measures shall be strictly adhered to, with all details of protective fencing agreed on site with the Council (and a written record taken) before any development commences.
- 7 Full details of the landscaping of the site, a timescale for implementation and proposals for

future maintenance, including in particular the treatment of the Fithie Burn and Drumsturdy pond areas, which shall generally be in accordance with the proposals set out in the Ecological Survey and Management Recommendations by Highland Ecology dated June 2006, shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details. Any trees or shrubs removed, dying, being severely damaged or diseased within 5 years if planting shall be replaced promptly on a like-or-like basis.

- 8 Details of any works to and the future maintenance of Drumsturdy pond and the wetland areas by the Fithie Burn shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details. These details shall ensure that water levels at Drumsturdy pond are maintained at levels that best promote the ecological value of the site and that any alterations to the pond or the land adjacent to the Fithie Burn are carried out at a time and in a manner that minimises the impact on the nature conservation value of the site.
- 9 The conclusions of the Flood Risk Assessment by Abertay University dated November 2005 shall be fully implemented prior to the commencement of construction of any of the houses and in particular all the houses shall be outwith the 1 in 200 year plus 20% climate change contour and the finished floor levels of the houses shall be set to a minimum of 600mm above that contour to airbrick or vent. The ineffective bund along the Fithie shall be removed and the material deposited on higher ground above the 1:200 year contour. No alterations shall be made to increase the height of the garden levels of the houses.
- 10 Development shall not begin until an assessment is made of potential contamination on the site and this assessment has been

submitted to and approved in writing by the Council. Should contamination be identified then a scheme to deal with it shall be submitted to and approved in writing by the Council.

The scheme shall contain details of proposals to deal with contamination to include:

- a the nature, extent and type(s) of contamination on the site.
- b Measures to treat / remove contamination to ensure the site is fit for the use proposed.
- c Measures to deal with contamination during construction works.
- d Condition of the site on completion of decontamination measures.

Before any unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 3 To ensure safe and convenient access by pedestrians.
- 4 To ensure adequate drainage without any increased risk of flooding on downstream properties or any damage to the water supply to Drumsturdy Pond.
- 5 To protect those trees and hedging which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development
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- 7 to ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area
- 8 In order to preserve and enhance the nature conservation value of the site.
- 9 To ensure that the existing and proposed houses are protected from flood risk.
- 10 To ensure that the site is fit for the proposed use.