

**KEY INFORMATION**

**Ward** Broughty Ferry

**Proposal**

Approval of reserved matters from consent ref 01/30251/OUT for the erection of one dwelling house with new vehicle access

**Address**

Land to North of 1 Castleroy Road, Broughty Ferry, Dundee DD5 1JL

**Applicant**

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**Agent**

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**Registered** 13 Nov 2002

**Case Officer** C Walker



## Proposed New House at Castleroy Road

The approval of reserved matters from consent ref 01/30251/OUT for the erection of one dwelling house with new vehicle access is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The principle of erecting a house on this site and the details of the access arrangements have already been established. The details are satisfactory and comply with the terms of the outline permission and the policies of the Development Plan. The application is recommended for **APPROVAL** with conditions.

**SUMMARY OF REPORT**

- The approval of reserved matters relating to outline planning permission ref. no 01/30251/OUT (granted in January 2002) for the erection of a house on this site is sought. The proposed 3 bedroom house is a substantial building on 2 levels using the slope of the site.
- It is proposed to site the house to the north west of Darkfalls and some 36 metres west of Castleroy Road at the nearest point. Access arrangements are unchanged from those approved at outline stage.
- 3 letters of objection were received from neighbours. Concerns include the impact of the house on mature trees, the size of the house and its proximity to Darkfalls, inadequate screening proposals, and drainage problems.
- The Council's Forestry Officer seeks adequate protection of the trees to be retained and is satisfied with the details of proposed replacement planting. Scottish Water have raised no objections to the proposed development on the basis that all surface water is being disposed of to a soakaway.
- This application was deferred by the January Development Quality Committee in order for landscaping details to be submitted. These details have now been submitted and the Council's Forestry Officer is satisfied with them.

## DESCRIPTION OF PROPOSAL

The approval of reserved matters relating to outline planning permission ref. no 01/30251/OUT for the erection of a house on this site is sought. The proposed house is a substantial building on 2 levels using the slope of the site. It is excavated into this slope so that it appears as a 2 storey house on its principal southern elevation and a single storey house on the northern elevation to the rear. It has 3 bedrooms, a kitchen, lounge, dining room, study and integral double garage. Its design is attractive with substantial glazing on the southern elevation, a pitched slated roof, random stone on the walls at the lower level and render on the upper level.

It is proposed to site the house to the north west of the existing house (Darkfalls). It would be some 11 metres from this house at the nearest point although it would sit well above it with the ground floor level being at the same level as the eaves of the house to the south. It would be 6 metres from the northern site boundary and some 50 metres from the house to the north of the site. It would be some 36 metres west of Castleroy Road at the nearest point.

It is proposed to form a new entrance off Castleroy Road approximately 25 metres north of the existing access to Darkfalls and to create a new driveway to serve the house. The proposed new entrance involves the demolition of a section of the 2.5 metres high stone boundary wall at Castleroy Road approximately 5.5 metres in length. The new entrance would be approximately 2.5 metres wide with curved wing walls formed of demolished stone in a similar manner as the entrance to Darkfalls. These entrance details were previously approved in connection with the outline planning application on this site.

It is proposed to surface the driveway with paving blocks with retaining walls of planted open block. The plans submitted also indicate the landscaping of the site with trees and shrubs and the disposal of surface water by means of a soakaway.

The entrance and mutual drive involves the felling of 1 tree. Some

recently planted trees at the location of the proposed entrance driveway would also require to be replanted. A Tree Report was submitted with the application for outline planning permission for a house on this site. It noted that the access proposals affect far fewer trees than previously approved proposals for this site. As well as the felling of 1 tree to form the driveway, the report also recommended the removal of 5 trees for arboricultural reasons and not to facilitate the development. The report stated that the most significant trees including the lime avenue along Castleroy Road would be retained and also proposed replanting to replace the tree to be felled.

This application was deferred by the January Development Quality Committee to allow for details of the



landscaping of the site to be submitted. These details have since been submitted.

## SITE DESCRIPTION

The site comprises some 0.2 hectares of garden ground to the north of Darkfalls. Darkfalls is a modern 2 storey split level house set in an attractive landscaped garden of some 0.66 hectares. It is one of a number of similar houses built within the former garden ground of Castleroy. This 1960's development is characterised by its very low density, the mature landscaping and the stone boundary walls at Castleroy Road and Camphill Road. There has been little new development within the gardens of these houses.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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

### Dundee Local Plan 1998

The following policies of the adopted Local Plan are relevant:

In this plan the site is allocated as part of a housing area and Policies H1 and H4 seek to safeguard amenity. Policy H10 sets out standards for new housing development.

More specifically it is covered by Policy BE4 relating to garden ground development.

Finally the site frontage, including the stone boundary wall along Castleroy Road, lies within the Reres Hill Conservation Area and Policy BE11 requires all development to complement and enhance the character of the surrounding area.

### Dundee Urban Nature Conservation Subject Local Plan 1995

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

### Finalised Dundee Local Plan Review.

In January 2003 the Council approved this Plan. It contains similar policies as the adopted Local Plan although the standards for new housing (Policy 4) and garden ground development (Policy 15) have been varied.

### Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application.

### Non Statutory Statements of Council Policy

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

## LOCAL AGENDA 21

The Council's Agenda 21 policies seek to value and protect the diversity of nature.

## SITE HISTORY

An application for outline planning permission to erect 2 houses on this site was deferred by Committee in August 1998 and subsequently withdrawn by the applicant in November 1998.

Outline planning permission was granted for a house on this site in February 1999 - application ref. no D23752 refers. That permission expired on 23/2/2002.

Outline planning permission was again granted for a house on this site in January 2002 - application ref. no 01/30251/OUT refers. That permission included detailed conditions on the access arrangements to the site, the height, design and siting of the house and the protection of trees. It did not specify or restrict the floor area of the proposed house. The current application for the approval of reserved matters is based on that outline permission.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the development was advertised as affecting the setting of the conservation area. Letters of objection were received from the occupiers of the neighbouring dwelling to the north and from the occupiers of 2 houses on the south side of Camphill Road. Copies of these letters are available for inspection in the Members Lounges. The following concerns have been raised on behalf of the objectors who occupy the house to the north of the site:

- 1 The proposed house is too close to mature trees within their garden. They have consistently objected to previous applications on this site on this ground. They are concerned about the impact of the foundations and excavations to construct the new house on these trees and state that the house will be closer to the trees than the 8 metre distance stipulated in condition 5 of the outline planning permission. The

trees may therefore need to be felled with a resulting loss of privacy for the objectors.

- 2 The proposed house is too large for the site and too close to Darkfalls. It will appear incongruous and overbearing and will dominate Darkfalls appearing to sit above it.
- 3 Because the house will be close to the northern and southern site boundaries it will not be possible to adequately screen it with planting as required by condition 5 of the outline planning permission.
- 4 There are likely to be problems with the disposal of surface water by means of a soakaway because of rock outcrops in this area.

The objectors also mention that they are feu superiors for the application site and are resisting attempts to relax the feu condition that precludes the building of the proposed house. They seek the deferral of the planning application until this matter is resolved which they state is due to be heard in February.

The 2 objectors who live on the south side of Camphill Road were subjected to serious flooding in July 2002 and oppose this development which they consider will exacerbate flooding in the area.

The issues raised in the letters of objection will be considered in the Observations section of this Report.

## CONSULTATIONS

The Council's Forestry Officer has been consulted. He seeks adequate protection of the trees to be retained. He has examined the details of the proposed replacement planting and landscaping of the site and considers them to be satisfactory. Finally he suggests that a Tree Preservation Order be placed on the trees on this site and the adjoining gardens which comprise the former grounds of Castleroy.

Scottish Water have raised no objections to the proposed development provided that all surface water is disposed of to a soakaway

## 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

Regard must also be had to Section 64(1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, by which special consideration must be given to the effects on the character and appearance of the conservation area.

## The Development Plan

The provisions of the development plan relevant to the determination of this application are Policies H1, H4, H10, BE4 and BE11 specified in the Policy background section above.

The proposed development is in accordance with the terms of Policies H1 and H4 of the adopted Plan which protect residential amenity. In considering the current proposals it is important to bear in mind that the principle of erecting a house on this site and the details of the access arrangements have already been established by the granting of outline planning permission for this house in January 2002. At that time all the issues about compliance with Policies BE4 and BE11, the impact of the development on the setting of the conservation area, on the trees both on the application site and adjoining garden to the north and on the amenities of adjoining occupiers were considered (other than the specific design and siting of the house). The access arrangements were approved in detail and a number of conditions were imposed on the erection of the house to ensure amongst other matters that it did not have an adverse impact on trees or on the amenities of adjoining occupiers. The issues up for consideration now are whether the actual size, siting, design and external appearance of the house and the proposals for the landscaping of the site are satisfactory.

In terms of the impact of the development on the conservation area,

the principal impact will be the access arrangements which have already been approved. The actual house will be some 36 metres west of the conservation area at Castleroy Road, and the site is therefore relatively secluded and screened from public view by the many trees on the application site and in adjoining gardens. The objectors to the north are concerned that the house is too big for the site and will have an overbearing impact on Darkfalls to the south east.

The general character of the area is one of low density housing in a mature landscaped setting. All these houses are very substantial in size and the granting of outline planning permission has established the principle of an additional house within the garden ground of Darkfalls.

The proposed house is a very substantial villa. The outline planning permission that was granted (0130251/OUT) did not specify or restrict the size of the proposed house. On plan form it does appear to be very close to Darkfalls and indeed is only 11 metres from it at the nearest point. However it is to the north west of Darkfalls and is not directly behind it. More importantly its finished floor level at ground floor is equivalent to the eaves level of Darkfalls. The proposed house will therefore look to the south west of Darkfalls and over the roof of that dwelling. Due to the secluded nature of the site, the appearance of one house sitting on top of the other as alleged by the objectors will not be very visible from adjoining streets. The only significant views of Darkfalls from adjoining streets are brief views from the south east and it is not considered that the impact of the 2 houses together will be so overbearing as to contravene Policy H4 or justify a refusal of permission.

The design of the proposed house is satisfactory. There is no obvious immediate context for the design of the house as there are a variety of house styles in the surrounding area. However the use of natural materials and forms and the simple and relatively symmetrical design employed produces a very pleasant appearance. It fully complies with the requirements of Policy H10 of the Plan.

It is concluded from the foregoing that the proposal complies with Policies

H1, H4, H10, BE4 and BE11 of the development plan. In addition it will preserve and enhance the character of amenity of the Conservation Area. The requirements of Section 64 of the Act and Policy BE11 are therefore satisfied by this development.

## Other Material Considerations

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

a The Finalised Dundee Local Plan Review:

This Plan has varied the standards for new housing (Policy 4) and garden ground development (Policy 15). However the proposed development is fully compliant with the amended standards for new housing set out in Appendix I of the Finalised Plan. Policy 15 includes a new requirement that prevailing densities in the area are respected. In this case the application site is some 0.2 ha in extent. This is some 8 times larger than the typical suburban housing plots at Castleroy Crescent to the north east of the site. It is considered the erection of a second house within the garden of 1 Castleroy Road will not disrupt prevailing densities in the area to such an extent as to contravene Policy 15 of the Finalised Plan. However any further development to provide a third house within the grounds of 1 Castleroy Road is likely to contravene Policy 15.

b The views of objectors on tree protection and landscaping, the size of the house and drainage issues.

The views of objectors on the size of the house have already been taken into account in the consideration of the application in the context of the policies of both the adopted and Finalised Local Plans.

The siting of the house has been designed to comply with the stringent requirements of the conditions of the outline planning permission relating to distance from trees. No specific measurement point was stipulated in the outline permission and the applicant has taken the centre point of the trees and it is considered that this is an acceptable interpretation of the condition and moreover that the development complies with the terms of the condition.

At the time of the outline application the likely impact of the development on the trees in the garden to the north was taken into account. The Councils Forestry Officer confirmed at that time that the proposed development would not destabilise trees around it but accepted that the trees to the north of the site on an exposed hilltop in adjoining property could be hazardous in severe weather conditions. It is not considered that there is anything in the details of the current proposals, including any excavation works to construct the house, which will alter this situation. In accordance with the views of the Forestry Officer a condition is proposed to ensure adequate tree protection during construction. In addition the proposed development will be constrained by the conditions of the original outline permission relating to tree protection.

It is considered that adequate provision can be made for screening of adjoining properties. Since the application was deferred by the January Development Quality Committee landscaping proposals have been submitted. They indicate substantial planting throughout the site and in particular along the northern, western and southern boundaries. As well as the planting of shrubs, hedgerows and ornamental trees, it is proposed to plant a total of 9 new trees on the site. The Councils Forestry Officer has viewed these plans and considers them to be satisfactory. The proposed layout plans indicate a 0.8 metres high beech hedge to the south. Due to level differences this will more than adequately screen Darkfalls from the application site. The trees and shrubs proposed to the north of the site will screen it from the garden to the north. Five trees are proposed to the west of the site both to form screening and to compensate for the tree to be felled as a result of the construction of the driveway.

It is considered that the proposed drainage arrangements are satisfactory. It is proposed to dispose of surface water to a soakaway and not to the sewer. This will mean that the proposed development will not exacerbate any flooding experienced by house on the south side of Camphill Road. The applicants have carried out soil porosity tests which reveal that the site is capable of accommodating surface water from the development.

Scottish Water have been consulted and have indicated their satisfaction with these arrangements.

It is concluded from the foregoing that insufficient weight can be accorded to these material considerations such as to justify the refusal of planning permission for this development which accords with the provisions of the Development Plan. It is therefore recommended that planning permission be granted with conditions.

Finally it is noted that the objectors to the north seek a deferral of this application until their opposition to attempts to relax the feu condition at this site are resolved. The decision on this planning application is an entirely separate matter and will be subject to any legal restrictions which may prevail at this location. There is therefore no justification for delaying the planning application until the issue of the feu condition is discharged.

## Design

Its design of the proposed house is attractive, with substantial glazing on the southern elevation, a pitched slated roof, random stone on the walls at the lower level and render on the upper level. There is no obvious immediate context for the design of the house as there are a variety of house styles in the surrounding area. However the use of natural materials and forms and the simple and relatively symmetrical design employed produces a very pleasant appearance.

## CONCLUSION

The principle of erecting a house on this site and the details of the access arrangements have already been established. The details of the proposed house are satisfactory and comply with the terms of the outline permission and the policies of the Development Plan.

## RECOMMENDATION

It is recommended that planning permission be GRANTED subject to the following conditions:-

- 1 the development hereby permitted shall be commenced within two years from the date of this permission
- 2 samples of the finishing materials proposed to be used shall be

submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples

- 3 The boundary wall shall not be demolished until:
  - a a contract for the erection of this house in accordance with the approved plans has been made and evidence thereof supplied to the Council and
  - b a report from a chartered engineer has been submitted and approved by the Council certifying that the works detailed in the approved drawings can be carried out without taking down additional sections of the stone boundary wall beyond that shown on the approved plans.
- 4 the existing trees and shrubs, indicated on the approved plans to be retained, shall not be cut down, grubbed out topped, lopped, uprooted or root pruned without the written consent of the City Council. Any trees or shrubs removed without such consent or dying, or being severely damaged or diseased, shall be replaced with trees and shrubs of such size and species as may be directed by the City Council and to the standard as approved by the City Council.
- 5 Prior to the commencement of development protective fencing in accordance with BS 5837 shall be erected along the drip line of all trees to be protected. A plan indicating the erection of this fencing shall be submitted to the Council for its written approval prior to its erection and this fencing shall be erected in accordance with the approved plan and retained and thereafter maintained in place throughout the construction period. Particular attention shall be paid to the protection of trees numbered 6, 8 and 14 referred to in the Tree Report dated December 2001 and if necessary the entrance driveway and/or the entrance pathway shall be narrowed to allow for adequate protection of these trees.
- 6 A bond to the value of £3,000 and in terms satisfactory to the

Council relating to the protection and maintenance of trees and shrubs indicated in the tree report by W B Leask dated December 2001 during the period of construction and ending with the occupancy of the dwelling hereby permitted shall be lodged with this Authority prior to the commencement of development.

- 7 A qualified arboriculturalist shall be employed to supervise all excavations within the canopies of trees as well as all tree felling and pruning and on completion of the works a certificate shall be submitted to the Council certifying that the works have been carried out to the standards set out in BS3998: 1989 and BS5837.
- 8 The landscaping scheme received on 5/2/03 shall be fully implemented within six months of the first occupation of the house. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.
- 9 Details of the method of disposal of all surface water run off from the development, including the driveway, to ensure that there is no run off to adjoining properties or roads 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.

## Reason

- 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 In order to ensure that the wall is demolished only in connection with the erection of a house on this site in the interests of visual amenity.

- 4 to protect those landscape features 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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- 8 to ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area
- 9 to ensure that the site is properly drained and in order to ensure that the development does not lead to an increased risk of flooding of downstream properties