

**KEY INFORMATION**

Ward Balgillo

**Proposal**

Change of use of land from public open space to private garden ground

**Address**

Land To The South of 643,  
645, 647 & 647A Arbroath  
Road  
Dundee  
DD5 3LD

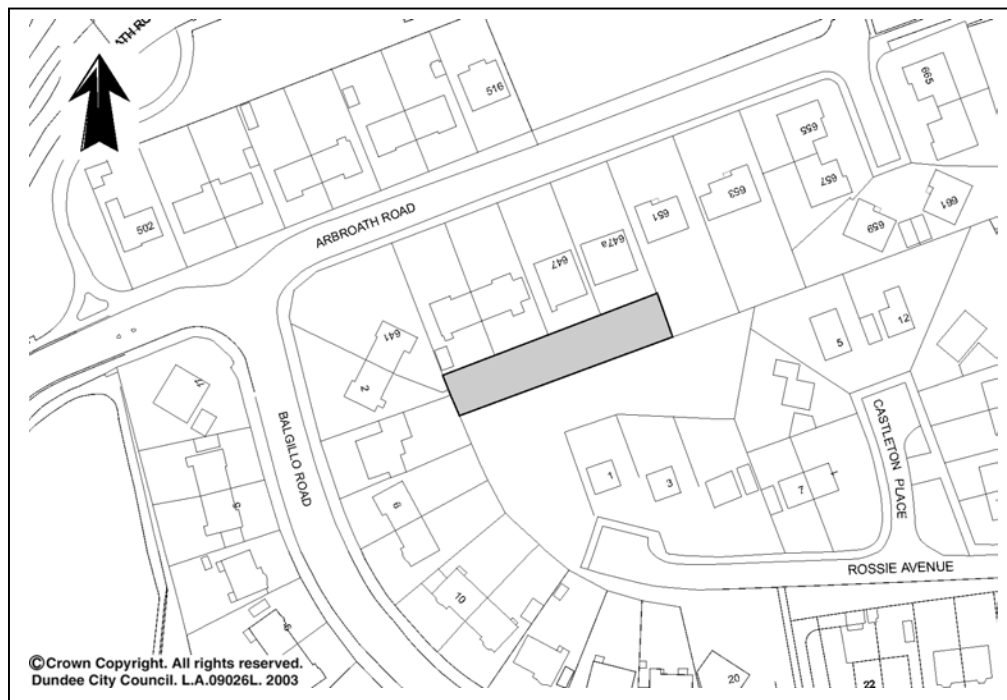
**Applicant**

Grant & Beverley Edward  
647A Arbroath Road  
Dundee  
DD5 3LD

**Agent**

Registered 14 October  
2004

Case Officer C Walker



A Change of use of land from public open space to private garden ground is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The change of use of this small area of open space is in accordance with the development plan and will not have any adverse impact on the visual amenity of the area or on the residential amenities enjoyed by surrounding occupiers. The application is recommended for **APPROVAL** with conditions.

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of some 570 sq. metres of public open space to private garden ground. The site is part of a small area of public open space enclosed by houses.
- Policy OS1 of the adopted Local Plan contains a presumption in favour of retaining open space but states that there may be instances where this presumption can be rebutted.
- Unlike the adopted Local Plan, in the Finalised Plan this area of ground is allocated as part of an existing residential area.
- 2 letters of objection and 1 of representation were received stating concerns about the loss of trees, damage to the natural environment, loss of privacy and overlooking, the loss of public open space and the possibility of unsightly sheds and garages being constructed in this area.
- The Councils Forestry Officer has not objected to the proposed tree felling subject to suitable replanting.
- It is considered that the loss of this small area of ground will not conflict with the requirements of Policy OS1 of the adopted Local Plan and that the change of use will not have any adverse impact on visual or residential amenity.

## DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of some 570 sq. metres of public open space to private garden ground. It is proposed to enclose the ground with 1.8 metres high timber palisade fencing and to further subdivide it to extend the 4 gardens belonging to the 4 applicants. It is also proposed to fell some 10 trees within this area of ground, with the large majority of trees being retained.

## SITE DESCRIPTION

The site is part of a small area of public open space enclosed by houses to the north on Arbroath Road, to the west on Balgillo Road, to the south on Rossie Avenue and to the east on Castleton Place. The only access to this space is from Rossie Avenue. The space is mainly grassed but there are areas of woodland planting to the rear of the houses on Arbroath Road and Balgillo Road.

The area of ground the subject of the current application lies immediately south of 4 houses from 643 to 647A Arbroath Road. It contains an area of woodland planting. To incorporate this area of ground into the gardens of these houses would bring their rear boundaries in line with those of the new houses to the east at Claypotts Mews/Arbroath Road.

## 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 site is allocated as an area of existing open space in the adopted Local Plan and Policy OS1 contains a presumption in favour of retaining these areas as open space. The policy adds that there may be instances where alternative uses are acceptable depending on:

- 1 The amount and distribution of alternative areas of open space in the vicinity;
- 2 The importance of the site to the visual amenity of the area, and;
- 3 The nature conservation value of the site.

### Dundee Urban Nature Conservation Subject Local Plan 1995

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

### Finalised Dundee Local Plan Review

Unlike the adopted Local Plan, in the Finalised Plan this area of ground is allocated as part of an existing residential area and Policy 1 Vibrant and Sustainable Communities states that development in these area should seek to minimise any affect on the environmental quality enjoyed by local residents.



### 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 Councils Local Agenda 21 Policies seek to value and protect the diversity of nature. This small area of ground is part of a larger area of open space and is not of any significant nature conservation value. The trees are part of an area of woodland planting and most will be retained.

Any trees felled will require to be replaced.

## SITE HISTORY

There is no relevant planning history to this site. A recent application has been submitted by the occupiers of 651 Arbroath Road to the east of the current application site to incorporate some 150 metres of open space to the south of their property into their garden ground - application ref. no. 04/00961/COU refers. This application has also attracted objections and has not yet been determined.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the development was advertised as a potential departure from Policy OS1 of the adopted Local Plan. 3 letters were received from the occupiers of houses to the west and south of the site. Two of the letters object to the proposed development, stating concerns about the loss of trees, damage to the natural environment, loss of privacy and overlooking, the loss of public open space and the possibility of unsightly sheds and garages being constructed in this area. The third letter does not object to the proposed development but asks that any trees felled be replaced.

Copies of these letters are available for inspection in the Members Lounges and the points raised are considered in the Observations Section of this Report.

## CONSULTATIONS

The Councils Forestry Officer has stated that all tree felling and replanting should be agreed with him.

## 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 relevant provision of the development plan is Policy OS1 of the adopted Local Plan. This policy contains a presumption against the loss of open space but does make provision for alternative uses depending on:

- 1 The amount and distribution of alternative areas of open space in the vicinity;
- 2 The importance of the site to the visual amenity of the area, and;
- 3 The nature conservation value of the site.

In this case the area of open space is small (some 2115 sq. metres) and is in a secluded situation where it is only visible from the backs of houses. It can only be accessed from one point at the end of Rossie Avenue so that its use is severely limited. Its layout is not convenient for any recreational use and there is no evidence of any significant use by members of the public.

Although it is planted with trees along its perimeter, the trees are mainly conifers and do not provide the diversity to sustain any significant nature conservation interest. It is notable that the site is not identified in the Dundee Urban Nature Conservation Subject Local Plan 1995 as being of any nature conservation value.

The proposed change of use will not remove this area of open space but will incorporate some 570 sq metres of it (27% of the total area) into the rear gardens of 4 houses. In addition it will even off an irregular space so that the impact will not be significant.

There are a number of similar and larger areas of open space scattered through the housing estate between Balgillo Road and Arbroath Road extending from Claypotts to Balgillo Road East. These alternative areas are generally at much more visible locations where they contribute to the visual amenity of the area and serve a limited recreational function.

It is considered that the loss of this small area of ground will not conflict with the requirements of Policy OS1 of the adopted Local Plan. There are plenty of alternative areas of open space in the vicinity, not least the remaining part of this small area of open space. The space does not

contribute to the visual amenity of the wider area because it is not visible other than from the rear gardens of a few houses and finally the site does not have any significant nature conservation value.

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:

### The Finalised Dundee Local Plan Review

In this Plan the site allocated as part of an existing residential area and it is considered that the proposed change of use complies with Policy 1 of that plan.

### The Views of Objectors and Consultees

Objections have been received stating concerns about the loss of trees, damage to the natural environment, loss of privacy and overlooking, the loss of public open space and the possibility of unsightly sheds and garages being constructed in this area. One of the objectors is concerned that the loss of trees could lead to increased traffic noise from the A92 (Arbroath Road).

The issues about the loss of this area of public open space and the nature conservation value of the site have already been assessed in the context of Policy OS1 of the adopted Local Plan and it has been concluded that the loss of this small area would be acceptable. The application site includes a woodland area and the applicants wish to remove some of these trees, although most of them will be retained. Details of the proposed felling have already been submitted to the Council's Forestry Officer, who does not object to the felling subject to appropriate replanting. It is not clear how the proposed development would lead to a loss of privacy as no physical development is proposed and at present anyone is entitled to enter this area of open space and look into the backs of adjoining houses. The application proposals include the erection of 1.8 metres high fencing which should remove any threat of overlooking. Finally the A92 is some 150 metres from the application site at the nearest point and there are 2 rows of houses between it and that road.

Even if the replacement planting took some time to mature the removal of some trees would have no impact on noise levels from the A92.

### Extension to small garden areas

The proposed change of use provides the opportunity to extend what are relatively small garden areas to form reasonably sized gardens for the occupiers of the 4 houses involved. Both the Adopted and Finalised Local Plans encourage the provision of adequate areas of private garden ground for new housing developments.

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

## Design

The only operational development proposed is the erection of a 1.8 metres high timber fence which is acceptable at this location.

## CONCLUSION

The change of use of this small area of open space is in accordance with the development plan and will not have any adverse impact on the visual amenity of the area or on the residential amenities enjoyed by surrounding occupiers.

## RECOMMENDATION

It is recommended that planning permission 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 No trees within the application site shall be felled without the prior written consent of the Council and all replacement planting shall also be subject to the approval of the Council.

## Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To ensure a satisfactory standard of appearance of the site in the

interests of the visual amenities  
of the area.