

KEY INFORMATION**Ward** Balgillo**Proposal**

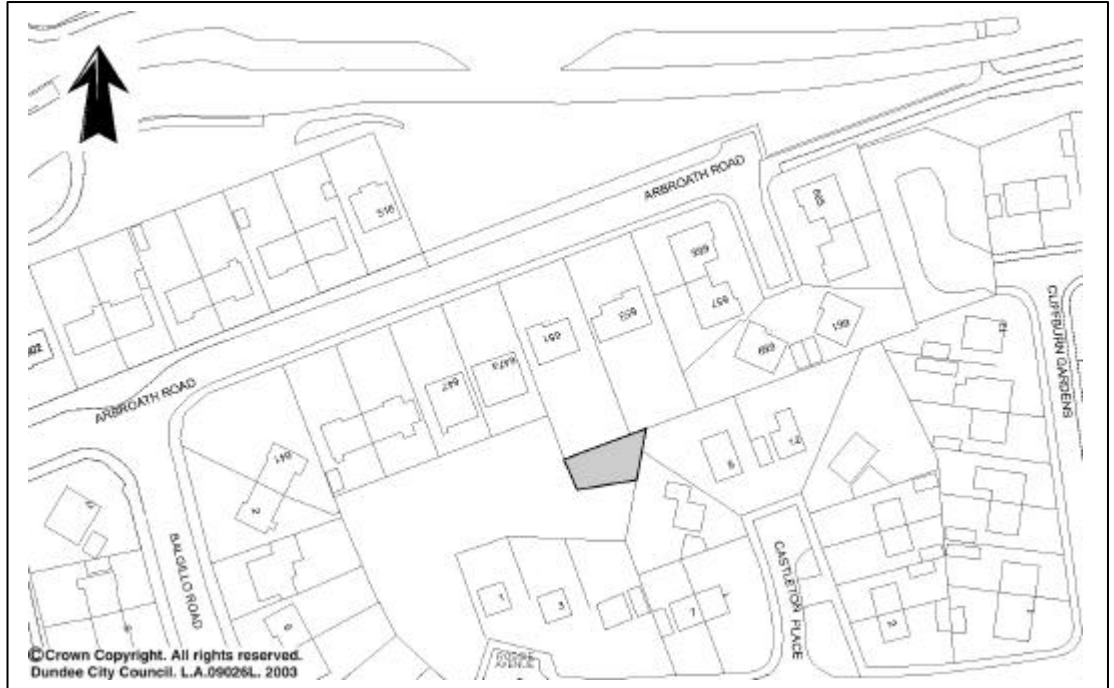
Change of use from public open space to private garden ground

Address

Land to south of
651 Arbroath Road
Broughty Ferry
Dundee
DD5 3LD

Applicant

Douglas & Jennifer Ross
651 Arbroath Road
1 Claypotts Mews
Broughty Ferry
Dundee
DD5 3LD

Agent**Registered** 8 Nov 2004**Case Officer** C Walker

Proposed extension to private garden ground for House in Arbroath Road

A change of use 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 135 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 were received stating concerns about the loss of trees, the loss of public open space and drainage problems in this area.
- The Council's Forestry Officer has not objected to the proposed change of use.
- 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, with the imposition of suitable conditions, that the change of use will not have any adverse impact on visual or residential amenity or have any adverse drainage implications.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of some 135 sq. metres of public open space to the rear of this house to private garden ground, enclosing it with a fence. It is also proposed to carry out works to some of the 5 trees within this area of ground.

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 the house at 651 Arbroath Road. It contains 5 trees.

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. Planning permission was recently granted for the change of use of some 570 sq metres of adjoining public open space to the rear of the houses at 643-647A into private garden ground - application Ref No 04/00892/COU refers.

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. 2 letters of objection were received from the occupiers of houses to the east and south of the site. The letters state concerns about the loss of trees, the loss of public open space and drainage problems in this area.

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 135 sq metres of it (6.4% of the total area) into the rear garden of this house. Even when combined with the recent decision to incorporate some 570 sq.metres of this area of open space into the gardens of houses at 643-647A Arbroath Road, the total represents only some 33% of the existing area.

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, the loss of public open space and drainage problems.

The issue about the loss of this area of public open space has 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 5 trees and the applicants indicate that they wish to lop some of these trees. Any proposed lopping or felling of trees can be made the subject of a planning condition with a requirement for replacement planting.

The proposed development is simply for a change of use and no building works are indicated. Discussions with the applicant have ascertained that the only immediate proposals are to relocate a shed and greenhouse into the extended garden area. In drainage terms there will be no impact as the nature of the ground will remain unchanged. In the interests of visual and residential amenity a planning condition can be imposed restricting the exercise of permitted development rights to erect any large domestic structures or hardstandings in this area of ground. This is to control the erection of large buildings or patio areas close to the private gardens of nearby houses. This should also ensure that run off from this ground will not significantly alter as a result of the proposed change of use.

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 fence which can be governed by a planning condition.

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 or on drainage within the surrounding area.

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 lopped or felled without the prior written consent of the Council and all replacement planting shall also be subject to the approval of the Council.
- 3 Details of the proposed boundary fence 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.
- 4 Notwithstanding the provisions of Classes 3 and 4 of Part 1 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any subsequent re-enactment thereof, no buildings shall be erected within the application site other than the relocation of the existing shed and greenhouse within the existing garden area of 651 Arbroath Road or the replacement of these buildings with buildings of a similar size and scale and no hardstanding shall be formed other than the provision of a base for these buildings.

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.
- 3 To ensure a satisfactory standard of appearance of the site in the interests of the visual and residential amenities of the area.
- 4 In the interests of visual and residential amenity.