

KEY INFORMATION

Ward West Ferry

Proposal

Erection of single storey dwellinghouse with single garage

Address

Land to Northwest of
27 Claypotts Road
Broughty Ferry
Dundee
DD5 1BY

Applicant

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Agent

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Registered 18 Nov 2004

Case Officer J Finlay



Proposed New House in Garden Ground in Claypotts Road

The Erection of single storey dwelling house with single garage is **RECOMMENDED FOR REFUSAL**.
Report by Director of Planning and Transportation

RECOMMENDATION

The proposed application is considered to be contrary to the policies of the development plan. There are no material considerations that would justify approval of the application in these circumstances

The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a single storey house within the garden ground and to the north west of 27 Claypotts Road.
- Three letters of objection were received to the application, a petition with 13 signatures and objections from Broughty Ferry Community Council and Historic Scotland. The main issues raised are the potential impact on Claypotts Castle which is a Scheduled Ancient Monument, traffic and access problems, loss of and damage to trees, appearance and height of proposed house.
- The application was advertised as potentially contravening Policy BE25: Scheduled Ancient Monuments of the Dundee Local Plan 1998 and also as affecting the setting of a listed building.
- Should Members be minded to approve the application, it will require to be referred to Scottish Ministers under the terms of Circular 4/1997: Notification of Applications Direction.
- The trees on the site are protected by a Tree Preservation order (no 3/1983).
- It is considered that the application is not in accordance with the Built Environment and Housing Policies of the Dundee Local Plan 1998 and Policies 15 and 64 of the Finalised Dundee Local Plan Review. In addition, it is considered that sufficient weight can be attached to the objections on potential adverse visual impact on the setting of Claypotts Castle to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the development of a single storey 3 bedroom house within garden ground to the west of 27 Claypotts Road. The floor area of the house is approximately 153sqm and garage is 22sqm. A new access will be formed from Claypotts Castle Gardens and a garage will be located to the south east of the house. The proposed finishing materials are dry dash rendered walls, bradstone basecourse and a slate roof. The house will be located at the north west end of the site with a 210sqm garden area to the south east.

SITE DESCRIPTION

The application site is located on the south side of Claypotts Castle Gardens, west side of Claypotts Road and close to the main Claypotts junction. The site is a western section of garden ground associated with 27 Claypotts Road. There is an existing 1.5 storey house to the east which is finished in a dry dash render and slate roof with access from Claypotts Road. There are numerous mature trees within the garden and particularly to the east and south east of the existing house. There is a high block boundary wall along the north boundary facing onto Claypotts Castle Gardens. Claypotts Castle is located to the north and on the opposite side of this road. There are five single storey dwellings to the north and immediately behind the Castle. There is an open space area on the opposite side of Claypotts Road, to the east.

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 are of relevance:

H1: Residential Amenity

H10: Design of New Housing

ENV12: Existing Trees on Development Sites

BE25: Scheduled Ancient Monuments

Dundee Urban Nature Conservation Subject Local Plan 1995

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

Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 1: Residential Amenity

Policy 4: Design of New Housing

Policy 15: Development in Garden Ground

Policy 64: Scheduled Monuments and Sites of Archaeological Interest

Policy 72: Trees and Urban Woodland



Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

NPPG 5: Archaeology and Planning

NPPG 18: Planning and the Historic Environment

PAN 42: Archaeology

Non Statutory Statements of Council Policy

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

LOCAL AGENDA 21

Key Theme 15 of Local Agenda 21 is of relevance to the determination of the application. It seeks to ensure that diversity and local distinctiveness are valued and protected. It is considered

that given the location of the proposed house these aims are not met.

SITE HISTORY

There is an application for the development of another house within the garden ground and it is located to the east of the existing house. The application is also on this Agenda .

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and three letters of objection and a petition with 13 signatures were received from neighbouring residents. The main objections relate to traffic and access issues, residential amenity, appearance and height of development, loss of and damage to trees and potential impact on Claypotts Castle which is a listed building and scheduled ancient monument. The application was advertised on 30th November 2004 as affecting the setting of a listed building. It was advertised as a potential departure to Policy BE25: Scheduled Ancient Monuments on 6th December 2004.

Copies of the objection letters are available for viewing in the Members' Lounges

CONSULTATIONS

A letter of objection was received from Broughty Ferry Community Council on the grounds of the detrimental impact of the proposed development on Claypotts Castle, loss of and damage to trees on the site, design of development and amount of useable garden ground seems small.

Historic Scotland object to the proposal on the grounds of the impact on Claypotts Castle. Their objections will be discussed in more detail within the "Observations" section below

OBSERVATIONS

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

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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

Policy H1 states that developments will be permitted within existing residential areas where they do not adversely affect the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell. It is considered that the design of the house is considered acceptable as the original house to the west which was built in the 1970s is not of a traditional style, but has a dry dash render and slate roof. Parking will be provided within the curtilage of the site and it will be accessed from Claypotts Road. There are no noise or smell issues. It is considered that the proposal complies with this policy.

Policy H10 specifies criteria to be met by new housing development in suburban areas. This includes the requirement for three bedrooms, a minimum of 120sqm of garden ground, 18m between facing habitable rooms, one parking space, a garage or space for one and each development must form interesting, safe spaces with interesting architecture giving a unique sense of place. On the basis of the details provided, the proposal complies with the criteria for house type/mix, parking and garage.

Policy ENV12 seeks to protect existing healthy mature trees not only for their visual amenity value but also for their wider environmental significance in giving shelter, combating atmospheric pollution and providing an important habitat for wildlife. The trees on the site are protected by Tree Preservation Order 3/1983. The applicant indicates that one tree will be removed from the site. The Council's Forestry Officer does not object to the removal of the cherry tree so long as there is replacement planting. If Members are minded to approve the application, a condition will be attached to ensure that suitable replanting occurs on site.

Policy BE25 states that developments which would adversely affect scheduled ancient monuments or their settings will not be permitted unless the development will satisfy an overriding and proven public interest which cannot be met in other less archaeologically important locations or by reasonable alternative means.

Historic Scotland submitted formal objections to the application as follows. Claypotts Castle is scheduled as a monument of national importance under the Ancient Monuments and Archaeological Areas Act 1979 (scheduled monument no.90075). It is a property in the care of Scottish Ministers and is one of Dundee City's foremost historic assets. Claypotts Castle is an outstanding example of 16th century Scottish architecture and one of Scotland's most complete examples of a fortified house. It is an exceptionally rare survival as it is intact and little altered. The roof is a particularly remarkable survival; most of the timber survives in its late medieval state. Claypotts Castle was built by John Strachan between 1588 and 1569, and later owned by "Bonnie Dundee", John Graham of Claverhouse. The castle owes its striking appearance to its Z-plan and its asymmetrical square garret chambers corbelled out over two circular towers at diagonally opposite corners.

When the castle was taken into care (in August 1926), the guardianship area was necessarily restricted, particularly on the west side, by the (then) presence of an old farmhouse and steading. In 1960, Historic Scotland's predecessor body was informed of a proposal to demolish the farm buildings and erect a new housing scheme which came right up to the western boundary of the guardianship area. At the same time, the road proposals meant the loss of part of the castle grounds fronting onto Claypotts Road at the north east corner of the site. In those days, the value of the historic environment was generally less well understood or accepted, and there were fewer opportunities for the public to consider or object to the impact of modern developments on important historic assets. Nevertheless, the Misses Batchelor, who then owned the farm, showed considerable foresight in gifting a parcel of extra land in the north west corner of the site to the Ministry, to help safeguard the amenity of the castle. The subsequent housing development has undoubtedly had an adverse effect on the setting and amenity of Claypotts Castle. The castle is also compromised by busy roads to the north and east. Against this background, the surviving areas of open ground are especially important and contribute significantly to the setting and amenity of the castle.

Historic Scotland is seriously concerned about the development which would have an unacceptable impact on the visual setting of the Castle, on the public appreciation of the castle in its setting and as a nationally important historic asset, and impeded understanding of the site in context. The proposal would impact on its value as a visitor attraction and educational facility within the Dundee City area, and impede any plans to improve visitors' experience and increase visitor and schools access and parking arrangements.

The views of Historic Scotland are supported in this case as it is considered that the proposed development would detract from the setting of Claypotts Castle, from the public appreciation of the scheduled ancient monument and reduce available parking for visitors and schools to the castle.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Other Material Considerations

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

Finalised Dundee Local Plan Review

Policy 4 on the Design of New Housing is similar to Policy H10 of the adopted Local Plan. Instead of requiring a minimum of 120sqm garden ground, it specifies that on greenfield sites an average useable garden ground of 150sqm should be provided. It is considered that the proposal complies with Policy 4.

Policy 15 is concerned with development in garden ground and specifies criteria to be met including a high quality design, use of appropriate materials, restrictions on the amount of new development within the garden ground and prevailing densities in the area should be respected. It is considered that the proposed development does not respect the prevailing densities in the immediate surrounding area and therefore fails to comply with criteria (d). Although the application appears to comply with the other criteria in the Policy, when taken together with the other application on this agenda, it fails to comply with criteria (b) as the two developments together will result in more than one and half times the footprint of the original house.

Policy 64 states that developments will not be permitted where they would adversely affect scheduled ancient monuments or their settings and will not be permitted unless the development will satisfy an overriding and proven public interest which cannot be met in other less archaeologically important locations or by reasonable alternative means. This Policy is similar to Policy BE25 of the Adopted Local Plan and the proposal does not comply with this Policy for the same reasons.

Policy 72 of the Finalised Plan Review is concerned with the protection of existing mature healthy trees and is similar to Policy ENV12 of the adopted Local Plan. For the same reasons the proposed development is considered to comply with Policy 72.

National Policy and Guidance

The Scottish Executive policy for the protection of the historic environment is set out in NPPG 5: Archaeology and Planning and its accompanying PAN4" and NPPG 18: Planning and the Historic Environment. NPPG5 states that:

"Scheduled ancient monuments are of national importance and it is particularly important that they are preserved in situ and within an appropriate setting. Developments which would have an adverse effect on scheduled monuments or the integrity of their settings should not be permitted unless there are exceptional circumstances".

The above policy statement makes clear that the following issue needs to be considered in any assessment of impacts on a scheduled monument:

* The indirect impact of works beyond the protected boundaries of the monument on its setting, which raises landscape, visual and amenity issues. Scheduled monument consent is not required for this issue, but in cases where planning permission is required it is a material consideration in the planning system.

It is considered that the proposal is contrary to this national guidance due to the adverse impact on the visual setting of Claypotts Castle, the public appreciation of the scheduled ancient monument and the reduced parking which will be available for school groups and other visitors to the castle.

Objections

Three letters of objection and a petition with 13 signatures were received from neighbouring residents. The main objections relate to traffic and access issues, residential amenity, appearance and height of development, loss of and damage to trees and potential impact on Claypotts Castle which is a listed building and scheduled ancient monument. These issues have been discussed above under the relevant policies of the Dundee Local Plan 1998 and the Finalised Dundee Local Plan Review. The proposed house is single storey and it is not considered that it will adversely affect the amenity enjoyed by local residents due to its appearance and height. The objections in terms of the impact on Claypotts Castle and the public appreciation and related parking issues are supported in these circumstances.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

Design

The design of the house is considered acceptable in terms of complementing the existing house at 27 Claypotts Road.

CONCLUSION

The proposed development is considered to be contrary to Policy BE25 of the Dundee Local Plan 1998 and Policies 15 and 64 of the Finalised Dundee Local Plan Review. There are no material considerations that would justify approval of the application contrary to the provisions of the development plan in these circumstances.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:

Reasons

1 The proposal is contrary to Policy BE25 of the Dundee Local Plan 1998 due to the adverse visual impact of the proposal on the setting of Claypotts Castle, which is a scheduled ancient monument and A-listed building. There are

no material considerations that would justify departing from the policies of the development plan in these circumstances

- 2 The proposal is contrary to Policy 15 of the Finalised Dundee Local Plan Review as it fails to comply with all the criteria. In particular, it fails to comply with criteria (d) as the prevailing densities in the area are not respected.
- 3 The proposal fails to comply with Policy 64 of the Finalised Dundee Local Plan Review as the proposed development will have an adverse visual impact on the setting of Claypotts Castle, which is a scheduled ancient monument and A-listed building.