

KEY INFORMATION

Ward Ninewells

Proposal

Retrospective relocation of hot tub

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Applicant

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Registered 18 Jan 2007

Case Officer D Gordon



Permission Sought for Hot Tub in Kinloch Place

Retrospective consent for the relocation of a hot tub is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

The provision of a hot tub in the location proposed is considered to be in accordance with Policy 14 of the Dundee Local Plan Review 2005. The application is recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Retrospective planning permission is sought to relocate a hot tub on the north side of a detached, two storey dwelling house that is located on the north side of Ninewells Avenue. The tub was previously situated on the south side of the house in a location that was both unauthorised and visually unacceptable.
- Policy 14 of the Dundee Local Plan Review 2005 is relevant to the determination of the application as it seeks to protect the amenity of neighbouring properties and the surrounding area.
- A letter of objection to the proposal has been received from a neighbouring property on the grounds that the use of the facility by the residents will result in late night noise and disturbance. A letter of representation relating to additional screening has also been received.
- The proposed relocation of the tub to the north side of the house is acceptable in land use and visual terms and consequently is considered to be in accordance with the requirements of Policy 14 of the Plan. There are no material considerations, including the submitted objection and representation, which would justify the refusal of this application.

DESCRIPTION OF PROPOSAL

The proposal under consideration involves the retrospective relocation of a hot tub within the curtilage of a detached dwelling located on the north side of Ninewells Avenue. The tub was previously located on the south side of the building ie overlooking Ninewells Avenue. This structure has now been moved to the north side of the house to a site that is partially screened and which sits at a lower level than the adjacent paved parking area to the north.

The structure is approximately 3m x 3m and supports a shallow pitched roof. Normally such developments are considered to be permitted development. However, planning permission is required in this instance as the building will project slightly beyond the elevation of the existing house that fronts Kinloch Park to the north.

SITE DESCRIPTION

The site is located on the north side of Ninewells Avenue within a small recently completed residential development. The building under consideration is a detached, two-storey dwelling that is finished in facing brick (walls) and roof tiles. The house is located in a prominent position on the Ninewells Avenue frontage and has been specifically designed with an inverted balcony at first floor level on the south elevation of the building.

The property accommodates garden ground to the north, east, west and north. An un-authorized hot-tub structure was previously located in the front garden of the property facing onto Ninewells Avenue. The site for the relocation of this tub is on the north side of the house in a small enclosed area immediately adjacent to the east side of the existing double garage. The site sits below the level of the paved parking area that fronts onto Kinloch Park.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan Review 2005

The following policies are of relevance:

The following policies are of relevance:

Policy 14: Alterations And Extensions to Houses. Proposals to alter or extend existing dwellinghouses will be only be permitted where:



- a there is no adverse impact on the appearance of prominent elevations of the house; and
- b there is no significant loss of sunlight, daylight or privacy to the occupants of neighbouring properties; and
- c more than 50% of the original useable garden area will be retained; and
- d the design and materials respect the character of the existing building.



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.

SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

SITE HISTORY

06/00975/FUL - Alterations and Extensions to Dwelling House - Application Withdrawn 12 January 2007.

PUBLIC PARTICIPATION

The statutory neighbour notification procedure has been carried out by the applicants. An objection to the proposals has been received from a neighbouring property with the main issues raised being:

- 1 the use of the facility has the potential to create noise and disturbance to the detriment of the amenities of adjacent residents, particularly during late evening hours.

A letter of representation has also been received. While this neighbour is not objecting to the location or the appearance of the hot tub, concerns have been expressed about the visibility of the facility from adjacent habitable room windows. It is suggested that additional screening around east side of the structure be provided to obscure the facility from these west facing windows.

Copies of the letter of objection and representation are available for inspection in the Members Lounges and the main concerns raised are addressed in the 'Observations' Section of this Report.

CONSULTATIONS

No adverse comments have been received from any of the statutory consultees.

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 property the subject of this application is a detached, two storey dwelling house that is located within a new private housing development located on the north side of Ninewells Avenue. The proposal under consideration involves the retrospective relocation of a hot tub from the south side of the house to the north side fronting onto Kinloch Park. The previous location of the structure, where it was erected without the requisite planning permission, was considered to be unacceptable by virtue of the adverse impact the tub had on the appearance of the existing house and on the setting of the surrounding area.

The tub is now located in a small site located on the north side of the site. This site sits below the level of the adjacent paved car parking area of the house and is partially screened by brick walls and wooden fencing.

The proposal requires to be considered under the terms of Policy 14 (Alterations and Extensions to Houses) of the Dundee Local Plan Review 2005. This policy presumes to support alterations and extensions to houses where the proposals do not adversely impact on the appearance of the prominent elevations of the house, where there is no significant loss of sunlight, daylight or privacy to neighbouring properties, where more than 50% of the garden is retained and the design and materials respect the

character of the existing house. It is considered that the design of the structure together with the characteristics of the site combine to ensure that the proposal will not significantly impact on the appearance of the existing building. In addition, there are no issues relating to a reduction in the daylight, sunlight and privacy of adjacent occupiers and the proposal does not use more than 50% of the curtilage garden ground.

Taking into account the above, the proposal is considered to be compliant with the requirements of Policy 14 of the Plan.

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:

Objections

The proposals have been the subject of an objection from a neighbouring property located to the north. The issue raised relates to the potential for noise and disturbance arising from the use of the hot tub by the householder, especially during late evening hours.

The proposed facility is a use that is considered to be incidental to the enjoyment of a dwelling house. Consequently, in land use terms, the provision of such a structure within the garden area of the dwelling is acceptable. The objectors house is located approximately 12 metres distant to the north and the facility is extremely well screened from this direction. The matter raised by the objector relating to noise generated by the residents using the facility cannot be reasonably controlled through the planning system and this issue should be addressed through separate legislation.

With regard to the issue raised by an adjacent resident to the east of the site, it is accepted that additional screening on the east side of the hot tub would benefit both the adjacent resident and the users of the facility. It is intended to attach an appropriate condition to any permission granted requiring additional screening be provided on the east side of the tub.

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 contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

While the design of the tub is not ideal, the location of the facility in the low level, partially screened site will not adversely impact on the appearance of the house or the setting of the surrounding area.

CONCLUSION

It is concluded from the foregoing that the design, appearance and location of the proposed new hot tub complies with the relevant policy of the development plan and that insufficient weight can be accorded to the material considerations, including the views of the objector and the submitted representation, such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission is granted with conditions.

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 That, within one month of the date of this consent, additional screening to match the existing shall be provided, and thereafter retained, on the east side of the hot tub in a manner that has been approved in writing by the planning authority.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 to protect the privacy of the adjacent occupiers and the users of the hot tub facility.