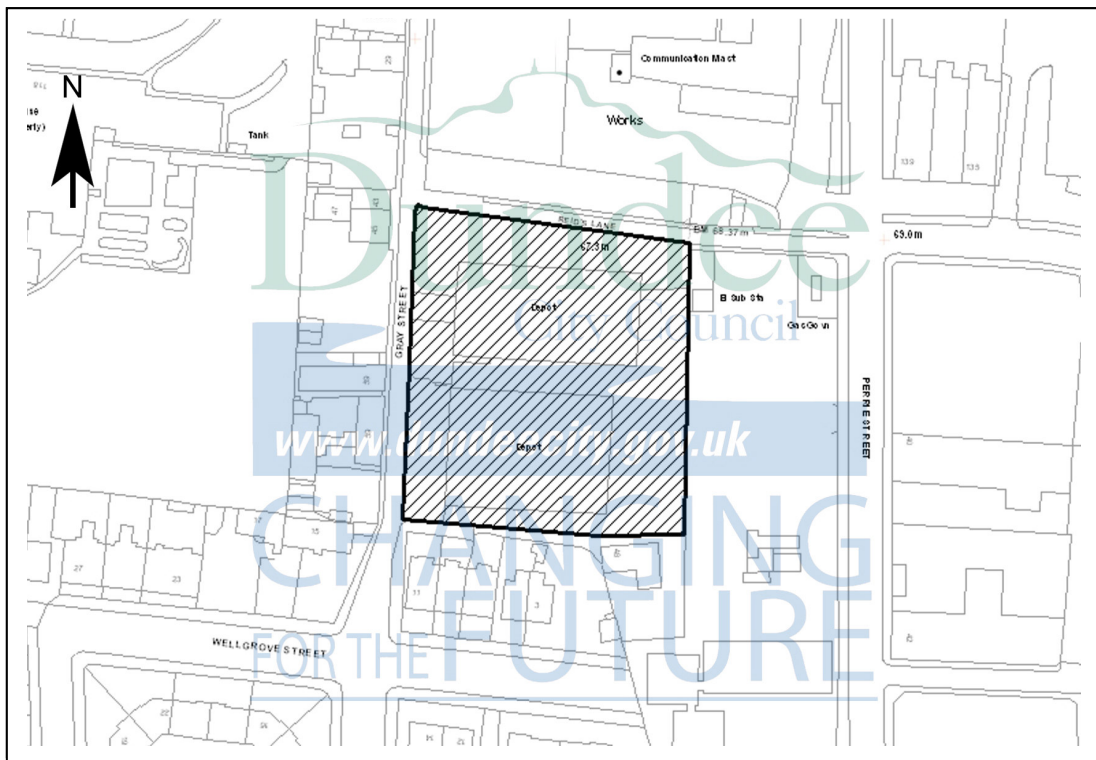


KEY INFORMATION**Ward** Lochee**Proposal**

Erection of 18 dwellings

Address44 Gray Street
Dundee
DD2 2QU**Applicant**Deans Court Ltd
Belsize House
Belsize Road
Broughty Ferry
Dundee
DD5 1NF**Agent**Peter Inglis Architects
Unit 3
Prospect 111
Gemini Crescent
Dundee
DD2 1SW**Registered** 22 Feb 2008**Case Officer** Eve Jones

Proposed Housing Development Contrary to the Development Plan

The erection of 18 dwellings is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The development fails to meet a number of policies in the Dundee Local Plan Review 2005 and does not comply with the approved Lochee Physical Regeneration Framework. The adjoining contractor has expressed concerns regarding the possible adverse impact of new housing on the operation of their business which are supported by this report. It is therefore recommended that planning permission be **REFUSED**.

SUMMARY OF REPORT

- Planning permission is sought for 18 x 2 storey, semi-detached dwellings and a new access road. 14 of the houses have the lounges and kitchen/dining areas on the upper floor with the bedrooms on the ground floor.
- The site lies on the east side of Gray Street, south of Reids Lane. Land to the west and the south is residential and land to the north and east is industrial.
- Noise - A Noise Impact Assessment proposes mitigation measures to reduce the noise impact of the adjoining contractors yard by the addition of 1 metre of masonry or timber to the existing boundary wall and the modification of the orientation of first floor bedroom windows on 6 plots. No details of these measures have been submitted as part of this application.
- The Head of Environmental Health and Trading Standards does not support the application on noise grounds.
- The adjoining contractor has expressed concerns regarding the possible adverse impact of new housing on the operation of its business.
- This site is identified for industrial uses and has been included in the review of sites carried out for the approved Lochee Physical Regeneration Framework. This has recognised the value to the City's economy of land and premises suitable for a wide range of industrial and commercial uses.
- The development fails to meet a number of policies in the Dundee Local Plan Review 2005 and does not comply with the approved Lochee Physical Regeneration Framework.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of 18 x 2 storey, semi-detached dwellings and a new access road. 14 of the houses have 3 bedrooms and 4 have 2 bedrooms. 14 of the houses have the lounges and kitchen/dining areas on the upper floor with the bedrooms on the ground floor. The 4 houses on the west side of the site are conventional layout with living rooms/kitchens on the ground floor. There are no garages. Each house has one car parking space on the driveway in front of the house. There are 6 visitor spaces shown on the layout and they are located within individual gardens. The access from Gray Street is a cul-de-sac with turning area. 4 plots are served by a private driveway off the cul-de-sac.

The rear gardens to the southern houses will be enclosed by a 1.8 metre high brick wall and the rear gardens to the northern houses, which back on to Reids Lane will be enclosed by a 1.8 metre timber fence. The boundary to the east is formed by an existing stone wall.

SITE DESCRIPTION

The site lies on the east side of Gray Street, south of Reids Lane. It is currently occupied by two industrial buildings with concrete hardstanding yard to Gray Street.

Gray Street is a narrow road sloping down from Liff Road to South Road which widens out to the south of the application site. Reids Lane, which is in poor condition, is a narrow road accessing Perrie Street. There is a high stone wall increasing from 1.8 to 2.5 metres forming the east boundary.

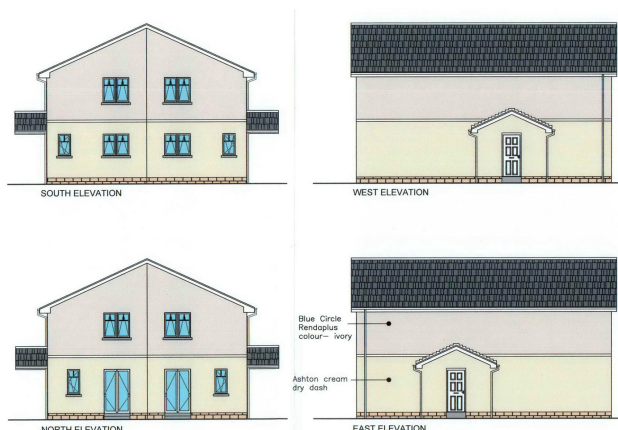
Land to the west and the south is residential with mainly traditional stone cottages to the west and terraced housing to the south. A detached house south east of the site gains pedestrian access along the southern boundary of the site. Land to the north and east is industrial with a mixture of yards including scrap yards to the north and a large complex operated by Turriff Contractors Ltd to the east with

further industrial units beyond. Ground level to the east is higher than the application site.

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:

Policy 26 - General Economic Development Areas.

Policy 2 - Housing Land Release.



Policy 4 - Design of New Housing.

Policy 75 - Sustainable Drainage Systems.

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

The following policy statements are of relevance:

The Lochee Physical Regeneration Framework was approved by the Planning and Transportation Committee on the 10th December 2007 and by the Development Quality Committee on 4 December 2006 as a material consideration in the determination of planning applications.

SUSTAINABILITY ISSUES

The following sustainability policy implication(s) arise from this application:

Policy 5 Built Environment seeks to protect the quality and diversity of the built environment and enhance local environments through ongoing regeneration but Policy 9 - Minimising and Remediation Policy seeks to adopt measures to reduce noise intrusion.

The issue(s) are discussed in greater detail below.

SITE HISTORY

05/00107/FUL Erection of 20 houses, application withdrawn.

05/00428/FUL Erection of 18 houses, refused by Development Quality Committee on 24 April 2006.

07/00694/FUL Erection of 18 houses, withdrawn 25 January 2008.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a development contrary to the Development Plan. One representation was received from the building contractors to the east who advise that although they are not making a formal

objection, they wish to point out that they operate a variety of typical activities appropriate to their business on a 24 hours basis. This includes HGV and plant movement, equipment and plant storage. The company states: "These activities will, as a matter of course, produce some noise and although we do all that is reasonable to control environmental impacts this may not be conducive to such a close residential development. Residential amenity may also be affected by the visual impact of the Turriff depot; this will of course be dependent upon the final layout of the proposed site."

This issue will be addressed in the Observations below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards advises in respect of:

Contaminated Land - appropriate conditions should be attached to any planning permission to ensure that, prior to the commencement of any development, an acceptable Site Investigation Report is submitted and that any remediation of the site which may be required is carried out and verified by the City Council in view of the industrial history of the site and the proposed use for residential.

Noise - A Noise Impact Assessment was prepared in respect of the previous planning application 07/00694/FUL and assessed the impact of the adjacent commercial yard on the occupants of the proposed housing. In order to achieve the minimum standards of noise impact in upper floor rooms during both daytime and night-time, amendments to the design of the housing and the intervening boundary wall were proposed. As these changes were considered to be material, application 07/00694/FUL was withdrawn and the current application, the subject of this report was submitted.

The recommended amendments to the proposals were to increase the height of the east boundary wall by 1 metre by either added masonry or construction of a timber barrier on top of the existing wall head; restrict the development to 2 storeys and modify the design of the houses to project the upper floor windows and orientate

them at an angle of 30 degrees away from the boundary wall to the yard.

The submitted plans show the houses as 2 storey with their living rooms on the first floor. In support of the current application, the consultant who prepared the NIA states that the revised scheme has adopted one of the recommendations of the full report, namely the provision of 2 storey houses. He further recommends that amendments are required as previously detailed, the addition of 1 metre of masonry or timber to the existing boundary wall and the modification of the orientation of first floor bedroom windows on 6 plots. No details of any revised house designs or increase to the stone boundary wall have been submitted to comply with these recommendations.

The Head of Environmental Health and Trading Standards comments as follows:

- a as the adjoining yard normally starts work from around 0500 hours, this is regarded as night-time and as such subject to tighter controls.
- b the proposed increase in the wall is not defined but if it were to be close boarded timber, it would require long term maintenance to remain effective.
- c the proposed mitigation measures with a "windows closed" assessment may be acceptable however this is not an inner city environment where "windows closed" assessments are applied and in such a location, a "windows open" assessment may be more appropriate.

As a consequence of the above, the application is not supported on noise grounds.

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.

Policy 26: General Economic Development Areas - "In areas designated as General Economic Development Areas, proposals for Class 4, 5 and 6 developments will be supported. Other uses of a wider industrial nature such as car showrooms, wholesaling, taxi offices and scrap yards may be permitted provided;

- a there is no detrimental impact on neighbouring uses and local residential amenity, and
- b there is no unacceptable traffic impact; and
- c the scale of development is appropriate to the size and location of the site.

Class 1 retail will not be permitted unless in accordance with other policies in the Local Plan.

Residential development is generally not supported within General Economic Development Areas unless a satisfactory standard of residential amenity can be achieved; housing will not adversely impact on the ongoing operation of adjacent industrial areas; and evidence demonstrates that the site is no longer suitable for economic development purposes."

The application is assessed against these criteria as follows:

"Satisfactory standard of residential amenity":

As noted above, the proposed development does not incorporate the noise mitigation measures recommended by the applicants own consultant other than restricting the housing to 2 storey. It is considered that the site will not have a satisfactory standard of residential amenity on grounds of noise impact from the adjoining commercial yard to the east.

"Adverse impact on ongoing operation of adjacent industrial areas".

The adjoining operator of the contractor's yard has made representations on these grounds as detailed above. It is considered that this is a very real and valid concern from an important local employer and

supports the situation illustrated by the Noise Impact Assessment proposals.

"The site is no longer suitable for economic development purposes".

The Lochee Physical Regeneration Framework was approved by the Planning and Transportation Committee on the 10th December 2007. The Framework states that:

"The Kirk Street Industrial Area provides an important and useful role not only within Lochee but within the city as a whole. Strong demand exists in the city for small industrial premises of the type found in Kirk Street. In terms of encouraging business start up and growth it is important that the type of sites and premises that are available in Kirk Street are not lost to the city. Equally the layout of streets and buildings within Kirk Street can shelter a range of unattractive but necessary industrial uses from surrounding housing. Every city needs such sites and their replacement would be extremely difficult."

Whilst the applicant's agent indicates that the existing units are "redundant and unsightly", have not been commercially let out for a number of years and have self seeded saplings adding to the general neglect, there is no submitted information to demonstrate that the units have been offered for rent. It is considered that neglect of the property is no justification for a site no longer being suitable for economic use.

It is considered that the proposal is contrary to Policy 26: General Economic Development Areas of the Dundee Local Plan Review 2005 as it does not meet the criteria for residential development within such an area. It will be further assessed against other policies in the development plan as follows.

Policy 2: Housing Land Release - "Proposals for housing land release additional to the Finalised Local Plan allocations will be acceptable where:

- a housing development is in accordance with all other policies in the Local Plan; and
- b it will make a positive contribution to quality and choice of housing available in the local area; and
- c it satisfies all of the housing standards contained in Appendix

1 of the Local Plan or those in any site planning brief approved by the City Council; and

- d it will improve tenure mix in areas where there is limited choice and contribute to wider community regeneration objectives.

Outwith the Housing Investment Focus Areas identified in the Local Plan, a condition may be imposed requiring that development commences within two years.

Proposals for additional greenfield land release will only be supported where allocated greenfield sites are agreed not to be effective and where the scale and location of development is in accordance with the strategy of the Structure Plan."

The site is not allocated for residential development in the Dundee Local Plan Review 2005. Policy 2 does not support such "windfall" sites unless they meet the criteria in the policy. Criteria a) and c) will be assessed once all policies have been addressed.

Criteria b) The agent's Design Statement contends that the development of similar houses nearby were very popular and sold out very quickly. The need for additional sites for new family housing has been addressed in the Lochee Physical Regeneration Framework which identified 20 sites with development opportunities within the Lochee area in addition to the nearby Pitalpin Village redevelopment area which will provide potentially up to 100 units of various sizes and tenures.

Criteria d) There is no indication that this development will provide choice of tenure. It is considered that the approved Lochee Physical Regeneration Framework is the appropriate method to identify new development sites to encourage the regeneration of Lochee and to protect the existing industrial areas which provide much needed local business and employment opportunities.

The proposed development fails to meet these identified criteria of Policy 2.

Policy 4: Design Of New Housing - the design and layout of all new housing in Dundee should be of a high quality. As a basis for achieving this, new development will be required to conform to the Design Standards

contained in Appendix 1 of this Local Plan unless:

- a the City Council, through either site allocation in the Local Plan or site planning briefs, considers it appropriate to vary the standards to reflect the constraints or opportunities offered by the development of a particular site; or
- b the proposal is within an established low density residential area, in which case the density of the new development should reflect this and more generous external space standards will be required.

New housing development should also have regard to the principles of the City Council's Urban Design Guide.

In addition, new housing development should meet "Secured by Design" standards. New residential streets should be designed to promote low vehicle speeds of 20 m.p.h. or less. New housing should have regard to opportunities to maximise energy efficiency and promote sustainable waste management.

Where conversion of a listed building or other building worthy of retention is proposed, there may be limited flexibility in applying parking and garden ground requirements where compliance is impractical. The development of flats through conversions of buildings of merit may also be acceptable where conversion to flats is the only appropriate action.

The site lies within the Inner City area and the criteria are set in Appendix 1 to Policy 4.

The proposal meets the house type and size requirements.

Parking: The proposal fails to meet the requirement for car parking. Each house requires 1 space within the curtilage and in addition, 40% require to have a garage or space for one. This means that there should be 8 properties with two spaces. The proposal only provides one space per house and therefore does not meet this criterion.

The proposal does provided the required 30 % visitor parking. However, this is very poorly located and is within the curtilage of some of the houses. It is therefore unlikely that this could operate properly as visitor parking as householders would regard

the spaces as their own. The 6 visitor spaces required should be located outwith private gardens.

Amenity space. The development provides the required areas of amenity space. The supporting statement suggests that each house will benefit from south facing outdoor space but for 10 of the properties, that area is the front garden and driveway and the private gardens are to the north of the dwellings.

Privacy - the new houses meet the minimum standards in relation to each other and to the houses to the south other than No 48 Gray Street which is a landlocked property with a pedestrian only access. The windows of 3 houses directly overlook this property within 16 rather than the minimum 18 metres. The design statement indicates that the development will include an improved access to this property although the plans indicate that the existing path will be widened there are no details of these proposals.

Design - in order to avoid the noise problems from the adjoining contractors yard to the east, the 14 3 bedroomed houses have their combined lounge/kitchen on the upper floor and two of the bedrooms on the ground floor. The houses on the north side of the road also have their living rooms facing north with the bedrooms facing south and subject to noise impact. The design also shows that the bedroom to the front, facing on to the driveway, has patio doors which may have privacy and general amenity issues. It is considered that this internal layout reduces the residential amenity of the properties. The proposals appear to be a conventional house type design with the internal layout reversed without any amendment to the exterior window layout. Whilst this design issue alone may not be sufficient to justify refusal of an application which might otherwise be acceptable, this proposed development is contrary to policy on a number of grounds and it is concluded that the design is of sufficiently poor standard to justify refusal contrary to Policy 4.

The gardens to the north, bounding Reids Lane have fencing to the rear and those to the south, bounding the adjacent private gardens have a brick wall. In order to provide more security, the northern gardens should

also have a brick wall where the site is bounded by a road.

The noise consultant proposes an increase in the boundary wall by 1 metre. No details of any increase to the stone boundary wall have been submitted. Even if this were to be proposed, the wall is already up to 2.5 metres high and the addition of 1 metre of stone or wood will be visually oppressive even if the applicant is sole owner of the wall and can indeed carry out such an amendment.

It would require planning permission and a building warrant and the consultant who suggested this modification notes that "advice from a structural engineer may be required" and "the fencing may also need to be designed to resist significant wind loads and structured accordingly". It is considered that this amendment appears contrived and is likely to be visually very oppressive.

The proposal fails to meet the minimum standards required by Policy 4 in respect of car parking and visitor parking and design.

Policy 75: Sustainable Drainage Systems - all appropriate development proposals must be accompanied by a Sustainable Drainage scheme at the time of submitting a planning application. This must be supplemented by a Drainage Impact Assessment that shows the impact of a 1 in 200-year rainstorm event. SUDS schemes should be designed accordingly so that if this event occurs, flooding will not be higher than 300 mm below floor level. In addition, proposals will be encouraged to adopt an ecological approach to surface water management and exploit opportunities for habitat creation or enhancement by forming wetlands or ponds, for example.

The agent has been requested to supply details of the proposed treatment of surface water from the site including road water. No such details have been submitted other than a brief comment in the Design Statement that porous hard surfaces will be used. Lacking the submission of more details to demonstrate that the site can be properly drained, the application does not meet the requirements of Policy 75.

Reverting to further assessment of Policy 2, it is considered that the development fails to meet criteria a)

and c) in respect of compliance with other policies in the Local Plan and the standards of Appendix 1.

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:

The Lochee Physical Regeneration Framework was approved by the Planning and Transportation Committee on the 10 December 2007 and by the Development Quality Committee on 4 December 2006 as a material consideration in the determination of planning applications. As detailed above, the proposed development fails to meet the development guidance in the Framework and is therefore not acceptable.

The Lochee Physical Regeneration Framework also identified a range of environmental improvements around the Kirk Street area, including the provision of landscape treatments to separate the industrial and residential areas and enhance the local residential amenity.

Representation

Whilst the representation submitted by the neighbouring business is not an objection the concerns raised are fully supported by this report and by the findings of the Noise Impact Assessment submitted by the applicant's consultants.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations such as to justify the refusal of planning permission in accordance with the provisions of the development plan.

Design

Design issues have been addressed in the Observations above in consideration of Policy 4.

CONCLUSION

This site has been the subject of 4 planning applications since 2005, two of which have been withdrawn and one refused. It has also been included in the review of sites carried out as part of the consultations for the preparation of the approved Lochee Physical

Regeneration Framework. This has confirmed the inclusion of the site within the area identified for uses in accordance with Policy 26: General Economic Development Areas of the Dundee Local Plan Review 2005 and recognised the value to the City's economy of land and premises suitable for a wide range of industrial and commercial uses. The developer's own consultant, having assessed the noise impact of the adjoining commercial yard, suggested mitigation measures in order to meet minimum night-time noise standards. The submitted proposals do not include 2 of those measures and the site is considered to be unsuitable for residential use on noise impact grounds. The adjoining contractor has expressed concerns regarding the possible adverse impact of new housing on the operation of their business which is supported by this Committee report and by the consultants report.

The development fails to meet a number of policies in the Dundee Local Plan Review 2005 and does not comply with the approved Lochee Physical Regeneration Framework.

It is therefore recommended that planning permission be refused.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:

Reasons

- 1 The proposed development is contrary to Policy 26 General Economic Development Areas of the Dundee Local Plan Review 2005 as the proposed residential development fails to meet any of the criteria for acceptable residential uses as defined in the policy. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 2 The proposed development is contrary to Policy 2 Housing Land Release of the Dundee Local Plan Review 2005 as the proposed residential development fails to meet any of the criteria for acceptable housing land release as defined in the policy. There are no material considerations of sufficient

strength to justify the granting of planning permission contrary to the policy.

- 3 The proposed development is contrary to Policy 4 Design of New Housing and of the Dundee Local Plan Review 2005 as the proposed residential development fails to meet the criteria for acceptable residential development as defined in Appendix to the policy. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 4 The proposed development is contrary to Policy 75 Sustainable Drainage Systems of the Dundee Local Plan Review 2005 as the proposed development fails to meet provide details of a Sustainable Drainage scheme as required by the policy in order to demonstrate that the site can be drained in an acceptable manner. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 5 The proposed development of this site for residential development is contrary to its inclusion in the Kirk Street Industrial Area in the approved Lochee Physical Regeneration Framework which is a material consideration in the determination of relevant planning applications.