

KEY INFORMATION

Ward Strathmartine

Proposal

Housing Development of
7 No Dwellinghouses

Address

Land North of Nursing
Home, Harestane Road,
Dundee

Applicant

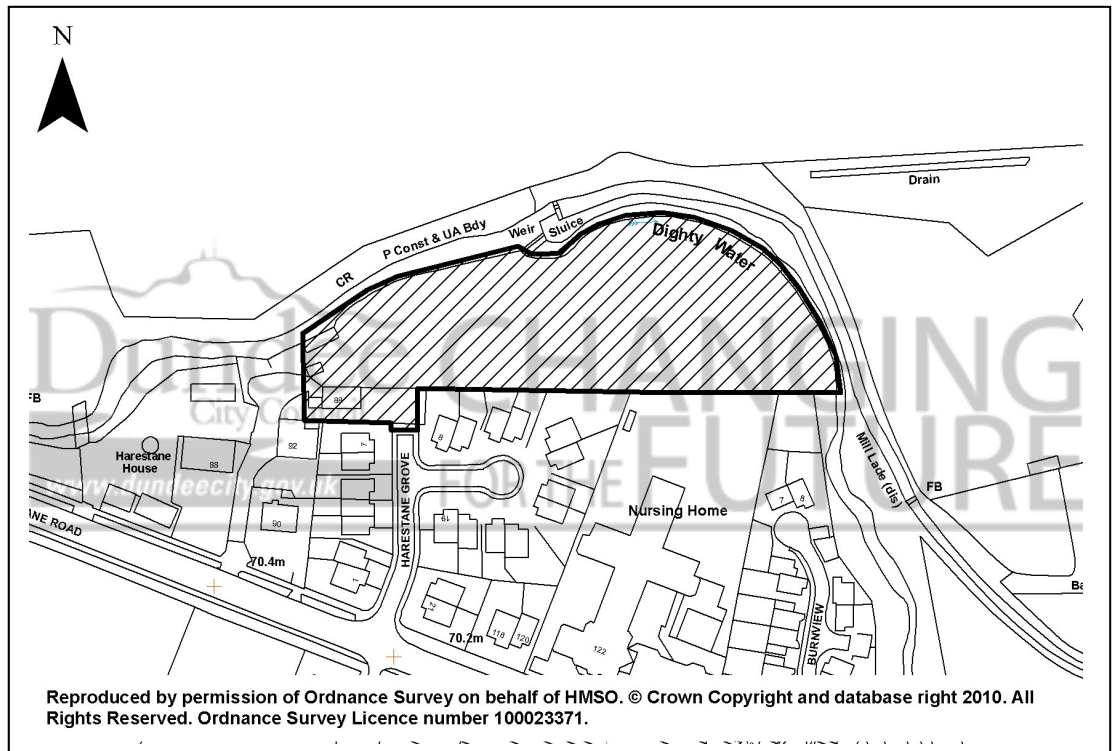
Arrowpoint Ltd
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Dundee
DD1 1PD

Agent

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Registered 16 June 2008

Case Officer Eve Young



Proposed Housing Development in Harestane Road

A housing development is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

RECOMMENDATION

The applicant has failed to address the fundamental drainage and flooding issues raised by the proposed development and SEPA has objected on this basis. The site is identified in the Local Plan as an area of open space and of nature conservation value and the development will not enhance the nature conservation value of the site. The proposal does not accord with the Development Plan and the application is therefore recommended for REFUSAL.

SUMMARY OF REPORT

- The proposal is to erect 7 houses on land to the north of the nursing home, taking access from Harestane Grove. The site lies alongside the Dighty Burn and is overgrown with trees and shrubs (including noxious weeds).
- Development Plan Policies on new housing, nature conservation, open space, trees, flooding and drainage are relevant.
- SEPA have objected to the development on flooding grounds. 3 letters of objection were received from neighbours concerned about flooding, loss of trees and traffic.
- Despite a number of attempts, the applicants have failed to demonstrate that the proposal will not lead to flooding problems and the loss of open space and impact of the proposals on nature conservation is not acceptable.

DESCRIPTION OF PROPOSAL

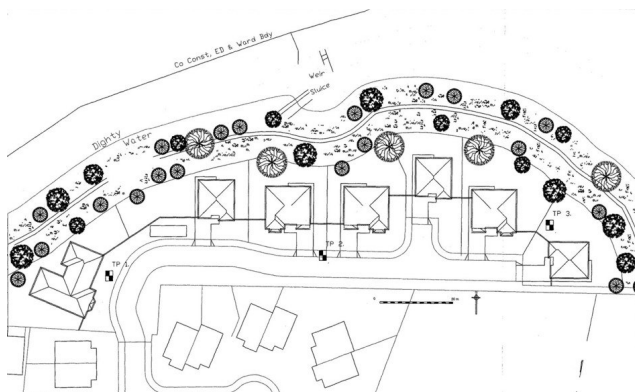
Planning permission is sought for the erection of 7 detached dwelling houses with an access road on land to the north of the nursing home at Harestane Road, Dundee. The development would take access from the existing residential cul-de-sac of Harestane Grove and would form a single sided development of houses facing south with rear gardens towards the adjacent Dighty Burn. The proposed houses are 6 x 2 storey, 4 bedroom houses with a single integral garage and 1 x single storey, 3 bedroom house with an integral double garage. The houses are of a typical suburban design. A large part of the site will be the subject of land raising to create a platform for the development and drainage proposals will include attenuation tanks within the roadway and 2 grass swales discharging to the Dighty. A 15 metre wide strip along the northern side of the houses will be fenced to create a nature corridor to be shared by the residents and accessible by gates in the boundary fences.

A Flood Risk Assessment was submitted with the proposed development in an attempt to indicate that subject to upfilling of the site to protect the houses and compensatory excavation to protect downstream properties, that the development would not create flooding problems. This Report was revised in November 2008, July 2009 and January 2010 in response to comments made by SEPA. These matters are considered in the consultations section below.

A revised Wildlife Corridor Assessment was submitted in November 2008 to justify the loss to development of land allocated in the Local Plan as open space and part of a wildlife corridor. It states that development of the site will not lead to loss of natural habitat and will further the wider aims of the Dighty Water Wildlife Corridor by improving the ecological and public value of the site. It states that noxious plants on the site could be eradicated and a publicly accessible wildlife corridor created. This matter is considered in the

assessment of the proposal against the Development Plan.

A Tree Survey was submitted but it has not taken into account the substantial changes to levels on the site as a result of the proposed measures to deal with flooding which would result in almost all trees on the site being removed.



Finally a planning justification was submitted which states that the proposals will bring back into use a derelict brownfield site, provide housing within a Housing Investment Focus Area and improve the appearance and environment of the area. It states that the development complies with Development Plan policy, that the site is inaccessible and derelict and that the houses will be energy efficient and sustainable.



Front Elevation (South East)

Although the current Schemes of Delegation would not necessarily require this application to be reported to the Development Quality Committee, this application was received in June 2008 at a time when any objection required an application to be referred to the Committee.

SITE DESCRIPTION

The site is an elongated D shaped area of ground north of the relatively recent housing development at Harestane Grove and the Nursing Home. Its curving northern boundary is formed by the Dighty Burn, flowing west to east, which bends northwards then follows a southerly course. The site is very overgrown with scrubby tree and shrub cover and with areas of Giant Hogweed along the banks with Japanese Knotweed and Himalayan Balsam. The site contains remains of old buildings, building materials and an old stone and block faced embankment which curves around the burnside of the site and slopes down steeply to the burn. It is relatively inaccessible and has lain derelict for a long period.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 4: Flooding and Development

Sets out the criteria against which development within areas at risk from flooding will be acceptable and requires SUDS for surface water disposal. There is a general presumption against development within areas of known significant flood risk.

Adopted Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 4: Design of New Housing

Policy 66B: Protection of other Open Space.

Policy 70: Semi-natural Greenspaces of Local Nature Conservation Importance.

Policy 72: Trees and Urban Woodland

Policy 75: Sustainable Drainage Systems

Policy 76: Flood Risk

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

Scottish Planning Policy - PAN 69
Planning and Building Standards
Advice on Flooding.

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

D20456 A planning application to
upfill the site was refused on appeal
in November 1996. The Reporter
considered that the proposal was
contrary to the Development Plan
and none of the suggested
advantages of the development
would justify an exception to this:

- 04/00069/FUL for erection of
6 houses - withdrawn March
2004;
- 05/00548/FUL for erection of
8 houses - withdrawn March
2006; and
- 06/01067/FUL for erection of
8 houses - withdrawn April
2007.

Those 3 applications were withdrawn
in circumstances where reports to the
Development Quality Committee had
been drafted recommending them for
refusal on grounds which included of
loss of open space and wildlife
corridor, drainage and flooding
concerns and a layout which failed to
meet Policy 4 of the Local Plan.

PUBLIC PARTICIPATION

The application was the subject of
statutory Neighbour Notification and
was also advertised as a development
contrary to the Development Plan.

Three letters of objection were
received from nearby residents on the
following grounds:

- loss of environment and impact
on trees;
- loss of residential amenity
including traffic; and
- drainage issues and potential
flooding.

Members will already have had access
to these submissions and the points
raised are considered in the
"Observations" Section of this Report
below.

CONSULTATIONS

A Flood Risk Assessment (dated June
2008) was submitted as part of the
planning application and was referred
to the Scottish Environment Protection
Agency (SEPA) as a formal
consultation. The report was assessed
by SEPA's hydrologist and as a result,
SEPA objected to the application and
requested further specific clarification



South Elevation

and assessment to be carried out.

A revised Flood Risk Assessment
(dated November 2008) was submitted
in response to the SEPA comments and
was referred back to SEPA. SEPA
maintained their objection to the
development on the grounds that "it
will place buildings and persons at
flood risk contrary to the provisions of
national planning policy and advice,
with particular regard to SPP7 and
PAN 69".

A further revised Flood Risk
Assessment (dated July 2009) and
additional information dated January
2010 was submitted and referred to
SEPA. SEPA again maintained their
objection to the development, their
principal concern being the inadequacy
of the proposed compensatory storage
area. SEPA pointed out that there is

land available which may potentially
provide alternative flood storage
capacity to prevent flooding on the
site, including land on the opposite
bank of the burn (which falls outwith
the red edge of the current application
and may not be within the applicant's
control). Accordingly, it is considered
that the current application cannot
proceed in its current form.

Members are advised that if the
Committee were minded to approve
this application, it would require to be
referred to Scottish Ministers for
determination as a result of the formal
objection of SEPA.

OBSERVATIONS

Section 25 of the Act provides that an
application for planning permission
(other than for a national development)
shall be determined in accordance with
the development plan unless material
considerations indicate
otherwise.

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 4: Design of New
Housing - Appendix 1 details
the criteria for compliance
with the high standards of
design which are required.
The development meets most
of the criteria with the
exception of that relating to

providing a minimum of 120 sq metres
of usable garden ground. In almost all
cases there is a limited area of rear
garden available, with houses
depending on less useable areas of side
garden to make up the total figure.

Policies 66B, 70 and 72: Protection of
Open Space, Semi-natural Greenspaces
of Local Nature Conservation
Importance and Trees and Urban
Woodland.

These policies are all interlinked
insofar as they relate to the
development proposals. The site is
allocated as open space and part of the
Dighty Wildlife Corridor. Policy 66
contains a presumption against
development of open space unless the
broad principles of Policy 66A are
satisfied or the proposals are consistent
with an approved strategy or

masterplan. Policy 66A relates to playing fields and sports grounds and does not therefore apply to this site. There is no approved strategy or masterplan for the development of this site and the application fails to meet Policy 66B.

Policy 70 states that development proposals must not adversely affect the nature conservation qualities of relevant sites, must be accompanied by an ecological or similar assessment that details the likely impacts and improves the conservation and educational value of sites.

The Wildlife Corridor Assessment which was submitted by the applicants states that development of the site will not lead to loss of natural habitat and will further the wider aims of the Dighty Water Wildlife Corridor. However the detailed proposals submitted for the development for the site, including the upfiling and excavation of ground to cater for flooding problems, would mean that the site would be virtually denuded of all existing trees and vegetation. Whilst the eradication of the pernicious plant growth on the banks would be of benefit, particularly the Giant Hogweed which is endemic along the Dighty which carries seeds to other sites, the loss of almost all the trees and other vegetation will have an adverse impact on the nature conservation value of the site.

The development proposes a 15 metres wide wildlife corridor in the form of a fenced strip along the burn accessed from individual gardens and owned by the householders. It is unlikely that the eradication of noxious weeds, which requires many years of treatment would be carried out in these circumstances. Furthermore it is unlikely that this area would function effectively as a wildlife corridor in terms of maintenance and there would be no public access.

The Wildlife Corridor Assessment states that the proposed wildlife corridor will allow trees to be retained but does not take into account the land raising or excavation which will require almost all the trees to be removed. Policy 72 of the Local Plan supports the retention of existing healthy mature trees.

It is concluded from the above that despite the proposals to remove the noxious plants and provide a reduced wildlife corridor that the proposed

development would adversely affect the nature conservation value of the site, would result in the excessive felling of trees and would involve an unacceptable loss of open space.

Policy 75: Sustainable Drainage Systems - all applications are required to be accompanied by a Sustainable Drainage scheme which meets the agreed standards. The drainage proposals for this development have been the subject of a number of amendments in order to address issues raised by the Council's engineers. No satisfactory scheme has been provided and it is considered that the application fails to meet Policy 75.

Environmental Resources Policy 4: Flooding and Development of the Dundee and Angus Structure Plan 2001-2016 and Policy 76 of the adopted Local Plan set out the criteria against which development within areas at risk from flooding will be acceptable and requires SUDS for surface water disposal. There is a general presumption against development within areas of known significant flood risk.

The issue of the 3 submitted Flood Risk Assessments has been detailed in the consultations section above. Satisfactory proposals for dealing with flooding issues at the site have not been provided and on this basis SEPA have maintained an objection to the proposed development. In these circumstances it is considered that the application fails to comply with Policy 4 of the Structure Plan and Policy 76 of the Local Plan.

It is concluded from the foregoing that the proposal does not comply with Policies 4, 66B; 70, 72, 75 and 76 of the Local Plan and Environmental Resources Policy 4 of the Structure Plan. In these circumstances it is concluded that the proposals do not accord with the Development Plan.

Other Material Considerations

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

Objections

3 letters of objection were received from nearby residents on the following grounds:

- Loss of environment and impact on trees;

- Loss of residential amenity including traffic; and
- Drainage issues and potential flooding.

For the reasons given above, the objections on the grounds of loss of environment and trees and flood risk are supported.

With regard to loss of residential amenity, residents are concerned that the extension to the current hammerhead to serve a cul-de-sac of 7 additional houses will result in increased traffic and danger to residents. There are currently 21 houses which use this access road and it is considered that the increased traffic generated by 7 houses is not sufficiently significant to justify refusal of the application if all other aspects of the development were acceptable.

However, as noted, the objections are supported on 2 of the 3 grounds stated.

Scottish Planning Policy 2010

Paragraphs 196- 208 deal with flooding issues and state the general principle that development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should not be permitted. The general guidance in SPP is reflected in the policies of the Development Plan and has been taken into account by SEPA in its comments on the proposed development.

The applicants supporting statement and reports

The applicants state that the proposals will bring back into use a derelict brownfield site and provide housing in a Housing Investment Focus Area. However the site is allocated as open space and part of a wildlife corridor in the Local Plan. The report on flooding has failed to convince SEPA that there will not be an issue with flooding as a result of the proposed development. Reports on trees and nature conservation fail to fully take into account the substantial changes to the site in order to deal with potential flooding.

It is concluded from the foregoing that there are no material considerations of any weight 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 houses are of a typical suburban design and acceptable for this location. However the design of the layout with the proposed ground raising, drainage systems and treatment of the banks of the Dighty Burn are not acceptable.

CONCLUSION

It is concluded that the applicant has failed to address the fundamental drainage and flooding issues raised by this proposed development despite having been afforded a considerable amount of time to do so. The Flood Risk Assessment has been amended twice and SEPA has objected to this development on 3 successive occasions. The site is identified in the Dundee Local Plan Review 2005 as an area of open space and a "Semi-natural Greenspace of Local Nature Conservation Importance". The development will not enhance its environment and the substantial areas of upfilling and excavation which are proposed will require the removal of most of the existing trees and vegetation. An acceptable SUDS has not been submitted. The objections are supported in respect of the adverse impact on the environment and the drainage/flooding issues. There are no material considerations which would support the granting of planning permission contrary to the Development Plan.

RECOMMENDATION

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

- 1 The applicant has failed to demonstrate that the development would not place buildings and persons at flood risk contrary to Environmental Resources Policy 4 of the Dundee and Angus Structure Plan 2001-2016, Policy 76 of the Dundee Local Plan Review 2005 and Government advice set out in SPP 2010. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the Development Plan.
- 2 The development fails to comply with Policy 70 : Semi-natural Greenspaces of Local Nature

Conservation Importance of the Dundee Local Plan Review 2005 as the development will adversely affect the nature conservation qualities of the site and will not meet the objectives of the policy. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the Development Plan.

- 3 The development fails to comply with Policy 75: Sustainable Drainage Systems of the Dundee Local Plan Review 2005 as no satisfactory SUDS has been provided and there are no material considerations of sufficient strength to justify the granting of planning permission contrary to the Development Plan.
- 4 The development fails comply with Policy 66B: Protection of other Open Space as the proposal involves the loss of open space in circumstances where there is no approved strategy or masterplan for the development of this site. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the Development Plan.
- 5 The development fails comply with Policy 4: Design of New Housing as the proposal would provide inadequate usable private garden ground for all of the houses. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the Development Plan.