

KEY INFORMATION

Ward The Ferry

Proposal

Change of use from open ground to enclosed garden ground

Address

Land to the North of
13 Cliffburn Gardens
Broughty Ferry
Dundee

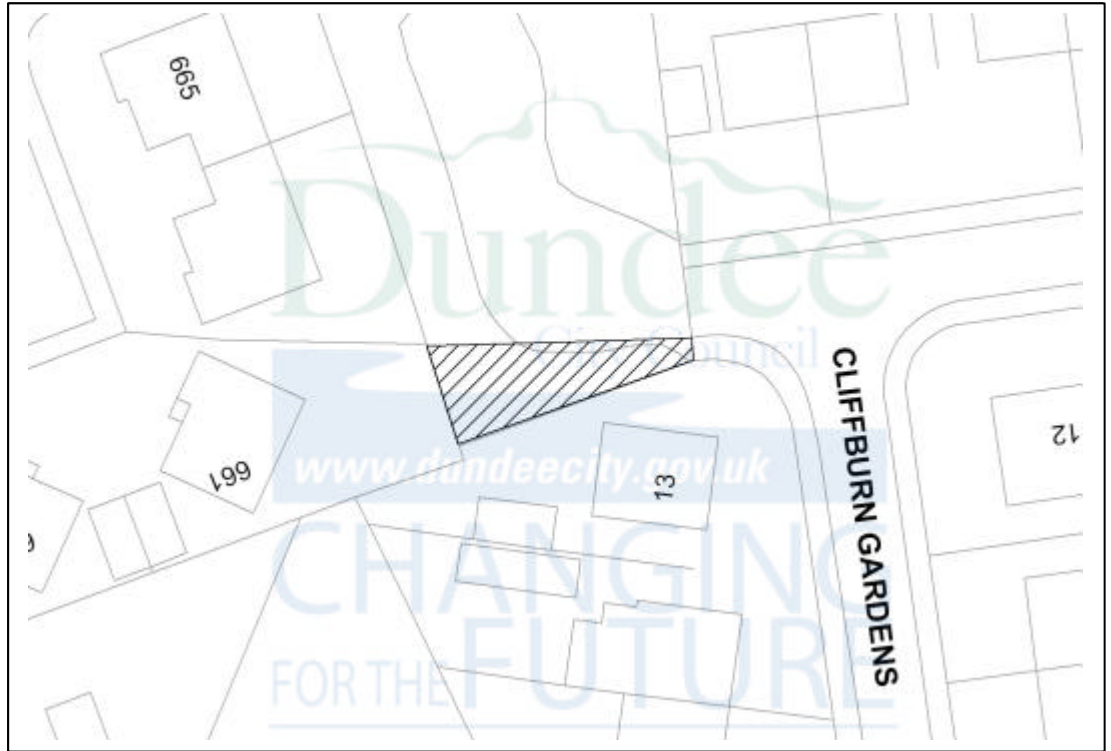
Applicant

Mr David and Mrs Ray
Morton
13 Cliffburn Gardens
Broughty Ferry
Dundee
DD5 3NB

Agent

Registered 7 July 2008

Case Officer J Young



Proposed Extension to Garden in Cliffburn Gardens

A change of use from open ground to enclosed garden ground is **RECOMMENDED FOR APPROVAL subject to conditions**. Report by Director of Planning and Transportation.

RECOMMENDATION

The change of use of open space is contrary to Policy 66B of the Dundee Local Plan Review 2005. It is considered, however, that the loss of this area is so minimal that it will not have an adverse impact on the overall provision of open space in Dundee. Accordingly the application is recommended for APPROVAL.

SUMMARY OF REPORT

- Planning permission is sought to change the use of some 94.55m² of public open space to private garden ground.
- Policy 66B: Protection of Open Space of the Dundee Local Plan Review 2005 is of relevance to the determination of the application. It is considered that the loss of open space is minimal and will not adversely affect the overall provision of open space within the City.
- No objections were received to the application.
- The application is recommended for APPROVAL.

DESCRIPTION OF PROPOSAL

Planning permission is sought to change the use of some 94.55m² of public open space to private garden ground. It is proposed to enclose the area with a 1.8m high timber fence to the north and 0.9m high timber fence to the east. No tree removal is proposed and any existing trees will be incorporated into the private garden ground.

SITE DESCRIPTION

The application site is located to the north of 13 Cliffburn Gardens. It is a small area of public open space enclosed by residential properties. The area is grassed and has substantial tree cover. The house to the south is 1.5 storeys and there is a low boundary wall along the north, which extends to 1.2m high along the boundary of the rear garden area. The site is accessed from the end of a cul-de-sac. A cycle path is located approximately 40m to the north of the site.



POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

The following policies are of relevance:

Policy 66b: Protection of Other Open Space - there will be a presumption against the development or redevelopment of all other open space within the Local Plan area unless:

- the broad principles of criteria listed in Policy 66A are satisfied; or
- the proposals are consistent with a park masterplan, strategy or programme approved by the Council to improve the management of open space."

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

It is considered that the area of ground does not have any significant nature conservation value and so the proposal does not breach any sustainability policies.

SITE HISTORY

There is no site history of direct relevance to the determination of the application. Similar applications have been granted permission in the locality.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and no objections were received.

The application was advertised as contrary to Policy 66B of the Dundee Local Plan Review 2005 on 18 July 2008.

CONSULTATIONS

The Council's Forestry Officer has indicated that any proposed tree felling and/or replacement planting should be agreed with the Council.

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 66B states that there will be a presumption against the development or redevelopment of all other open space within the development plan unless the broad principles in Policy 66A are satisfied or the proposals are consistent with a park masterplan, strategy or

programme approved by the Council to improve the management of open space. The proposal is not compliant with Policy 66B.

In this case the area of open space is small (some 94.55m²) and is in a secluded situation where it is only visible from the end of a cul-de-sac and from the back of houses. Nevertheless the area is allocated on the Proposals Map in the Dundee Local Plan Review 2005 as public open space. It can only be accessed at the end of Cliffburn Gardens and so its use is 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, they 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 Local Plan Review 2005 as being of any nature conservation value.

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 concluded from the foregoing that the proposal does not conflict with the aims of Policy 66B of the Dundee Local Plan Review 2005. There are alternative areas of open space in the vicinity, including 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 from the end of a cul-de-sac, it is considered that the site does not have any significant nature conservation value.

It is concluded from the foregoing that there are material considerations to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

It is proposed to erect 0.9m and 1.8m high timber fences around the boundary of the new area of private garden, which are considered acceptable at this location.

CONCLUSION

The change of use of this small area of open space will not have any adverse impact on the visual amenity of the area or on the residential amenities enjoyed by surrounding occupiers. It is considered that these are material reasons to set aside the provisions of the development plan in these circumstances.

RECOMMENDATION

It is recommended that consent be GRANTED subject to the following conditions:-

- 1 Details of the proposed timber 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.
- 2 No development shall commence on site until details of any proposed tree removal and any necessary re-planting and/or tree protection has been agreed with the Council.

Reasons

- 1 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 2 To ensure that any trees which contribute to the visual amenity of the area are adequately protected.