

KEY INFORMATION

Ward North East

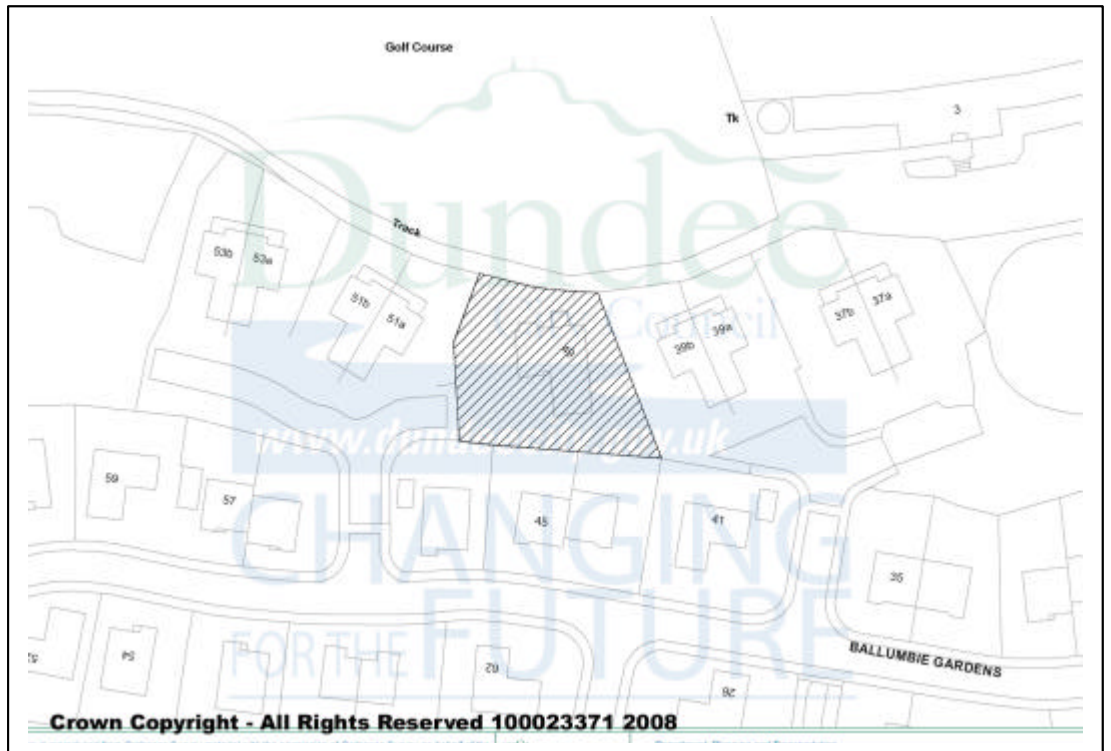
Proposal

Erection of summer house/shed and decking

Address49 Ballumbie Gardens
Dundee
DD4 0NR**Applicant**Graham & Linda Kidd
49 Ballumbie Gardens
Dundee
DD4 0NR**Agent**

Registered 12 Aug 2008

Case Officer C Walker



Consent Sought for Summer House and Decking in Ballumbie Gardens

The erection of a summer house and decking is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

Subject to the erection of appropriate screening there will not be an unacceptable impact on privacy. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of decking and a summer house in the garden area of a recently constructed house at 49 Ballumbie Gardens. The decking and summer house have already been erected since late June and sit above the dwelling house immediately to the south at 43 Ballumbie Gardens.
- There is no Local Plan policy directly relevant to the determination of this application.
- A letter of objection was received from the neighbour to the south who is concerned about a loss of privacy.
- The concerns of the objector about overlooking can be overcome with the erection of appropriate screening and it is recommended that planning permission should be granted with a condition requiring the early provision of screening.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of decking and a summer house in the garden area to the south east of 49 Ballumbie Gardens. The decking and summer house have already been erected since late June. The decking extends to some 55m² and the summer house is a flat roofed timber structure which sits on top of the decking. The summer house has a plan area of some 12.5m², a height of some 2.4 metres and windows facing north and west.

The decking raises ground levels adjacent to the property immediately to the south by some 0.8 metres so that the effective height of the mutual boundary fence is reduced from 1.8 metres to 1 metre at the area of decking.

SITE DESCRIPTION

The site comprises a detached dwelling and its garden ground at 49 Ballumbie Gardens. The house is of recent construction and sits on an elevated plot above its neighbours to the south. The garden ground is enclosed by timber fences of 1.8 metres in height and the decking and summer house as described above have already been erected.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

There is no Local Plan policy directly relevant to the determination of this application. Policy 1 applies to all residential areas and seeks to protect amenity but is drafted in terms of encouraging mixed uses whilst protecting residential areas from the negative impacts that might be associated with the introduction of some commercial uses. Policy 14 relates to alterations and extensions to houses but does not specifically refer to garden structures such as proposed in this application.

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

Planning permission was granted for the house on this site (along with 8 others) in June 2005 - application 05/00351/FUL refers. Because the site sat above the adjoining houses to the



south the planning permission included a condition that screening, in the form of landscaping, be provided along this boundary.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and a letter of objection was received from a neighbour to the south. The objector is concerned that the structures were erected without permission and that they result in a serious loss of privacy to her property, due to the fact that the decking and summer house sit well above the existing ground level nullifying the impact of the 1.8 metres high screen fence so that people using the structures can look directly into her kitchen and bedroom window. Concerns are also raised about the original planning permission for the applicants' house and the enforcement of a planning condition attached to that consent but those matters are not relevant to the determination of this planning application.

Copies of this letter are available for inspection in the Members' Lounges and the issues are discussed in the "Observations" section below.

CONSULTATIONS

No adverse comments on the development were received from Consultees.

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

There are no provisions in the development plan that directly relate to the current application. There are policies, such as Policy 1 and Policy 14, that by analogy could be used to give guidance in the determination of the current proposal but these are considered under "Other Material Considerations" below. In the absence of any directly relevant policy framework it is

concluded that the proposal does not conflict with the Development Plan.

Other Material Considerations

This application falls to be assessed on its merits taking into account the concerns of the objector and any guidance provided by the Development Plan. Policy 1 of the Local Plan suggest that in assessing the introduction of commercial uses into residential areas amenity should be protected in terms of design and layout. Policy 14 on extensions to houses states that extensions to houses should not result in significant loss of privacy to the occupants of neighbouring properties.

In this case it is considered that the design of the decking and summer house are satisfactory and if there was not a difference in ground level there would be no difficulty in accommodating these structures within the garden area. However the difference in ground level results in significant overlooking of the dwelling house and garden ground at 43 Ballumbie Gardens to the south. This perceived loss of privacy has attracted an objection from the affected neighbour.

Although clearly the structures have not been constructed in order to overlook the neighbour's property, the fact that the decking sits approximately 0.8 metres above the affected house and garden means that normal usage of this area of decking affords clear views over the neighbour's property. The windows of the summer house are largely oriented away from the objector's property so that the extent of overlooking is less. The concerns of the objector about overlooking are considered to be valid and to permit the development in its current form would result in an unacceptable erosion of privacy.

However there is the potential to provide screening so that the element of overlooking is overcome. If the existing 1.8 metres boundary enclosure was raised by 1 metre this would increase the effective height of the screen above the decking to 2 metres. Whilst a boundary enclosure of this height might otherwise appear oppressive, in this case it is to the north of the house affected by overlooking, so that the impact on sunlight would not be significant and the heightened enclosure would be

seen against a backdrop of a house at a much higher level. The possibility of additional screening has been discussed with the applicants and they have stated that they are prepared to implement such a requirement. The objectors have also stated that if adequate screening was provided they would not oppose the development. Because the decking and summer house are already in place it is important to ensure that the additional screening is in place as soon as possible so if Members are minded to approve the application it is suggested that a planning condition be attached requiring screening to be approved and erected within a period of 6 weeks.

It is concluded from the foregoing that with the erection of appropriate screening there will not be an unacceptable impact on privacy and that planning permission should be granted with conditions.

Design

The design of the decking and summer house is typical of such garden structures and is satisfactory for this location.

CONCLUSION

Subject to the erection of appropriate screening there will not be an unacceptable impact on privacy and planning permission should be granted for this development.

RECOMMENDATION

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

- 1 Details of additional screening in the form of a 1 metre extension in height to the mutual boundary enclosure between the application site and the garden of 43 Ballumbie Gardens shall be submitted to the Council for approval within 2 weeks of the date of this consent and the approved scheme shall be fully implemented in accordance with such approved details within 6 weeks of the date of this consent. Once erected, the approved screening shall be retained in place to form an effective screen for as long as the decking and summer house remain on the application site unless otherwise agreed in writing by the Council.

Reason

- 1 To protect the privacy of the occupiers of the dwelling to the south of the site in the interests of residential amenity.