

KEY INFORMATION

Ward The Ferry

Proposal

Platform in tree for Children's Zip Wire in Garden and Walkway to Include Tree House

Address

1-3 Brackenbrae
Broughty Ferry
Dundee

Applicant

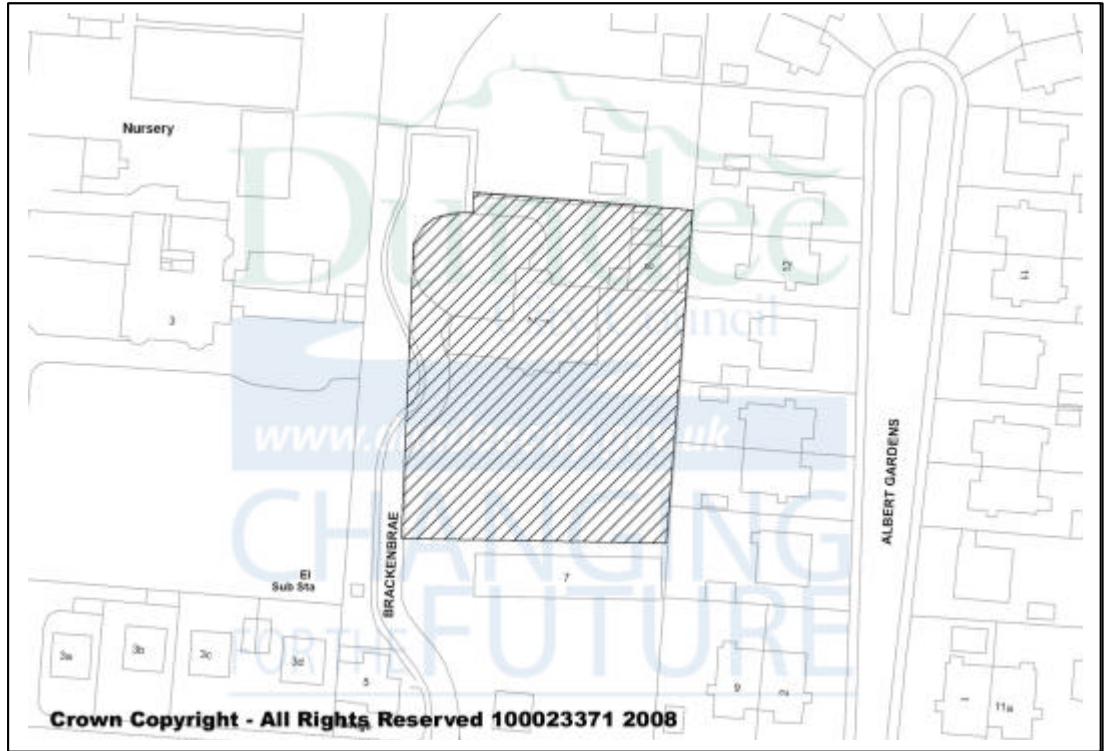
Mr & Mrs Conway
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Broughty Ferry
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Agent

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Registered 14 Aug 2008

Case Officer C Walker



Consent Sought for Play Equipment at Brackenbrae

A tree house, platform, children's zip wire and walkway are **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

It is concluded that there will be an unacceptable impact on the level of privacy enjoyed by neighbours surrounding the site which cannot be adequately mitigated by screen planting. The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought to retain children's play equipment within the garden ground of a large detached villa. The equipment comprises of an elevated "rope bridge" walkway and a zip slide along with associated towers, decks and a tree house. The structures have been erected along the eastern and western site boundaries.
- There is no Local Plan policy directly relevant to the determination of this application.
- 5 letters of objection were received from neighbours concerned about a loss of privacy, noise from people using the structures and the design of the structures.
- It is concluded that there will be an unacceptable impact on the level of privacy enjoyed by neighbours surrounding the site.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of children's play equipment in the form of an elevated "rope bridge" walkway and a zip slide along with associated towers, decks and a tree house. The equipment has already been erected since the beginning of June.

The zip slide extends for some 35 metres along the western site boundary adjacent to the public road called Brackenbrae, and this slide is accessed by rope bridges and a tower in the north west corner of the site. The top of the tower is approximately 5.5 metres high and the access bridges are approximately 1.7 metres high. These structures are visible from the public road and from neighbouring houses.

The elevated walkway (or "rope bridge") along the eastern site boundary extends for some 18 metres and terminates in a tree house in the south eastern corner of the site. The walkway runs between trees and is approximately 2.6 metres above ground level. The tree house sits on a level platform of approximately 6m² meters ranging from 1.7 to 2.5 metres above the existing ground levels (which slope to the south). The tree house has windows facing south and north west. The height of the walkway and tree house platform are well above the stone boundary wall to the east of the site and it is possible to see into the rear gardens of houses at Albert Gardens to the east of the site.

SITE DESCRIPTION

The application site is located on the east side of Brackenbrae. The site comprises a large detached stone and slate villa with a substantial two storey modern extension on the west elevation and a detached cottage to the rear linked to a double garage.

The site is accessed by a narrow public road (known as Brackenbrae) leading northwards from Albert Road and serving five other houses. To the north are modern houses which share the

driveway and to the south is a modern bungalow constructed in the former



garden ground of this villa. To the west is a Category B listed building used as a house and nursery. To the



east are houses at Albert Gardens. Trees line the roadway at Brackenbrae and the site boundaries.



The play equipment described above has 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 to extend Brackenbrae in 2006 and to realign the public road at Brackenbrae in February 2007 - applications 06/00402/FUL and 06/01103/FUL refer. These works have been carried out.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and 5 letters of objection

were received from neighbours surrounding the site. The objectors are principally concerned about a loss of privacy from people using the structures. They feel that the height of the structures means that the overlooking is unacceptable and that screening is not an option. Concerns relating to noise from people using the structures have been voiced with particular reference to early morning and late night use, by children and adults. The design of the structures has also been criticised with neighbours considering them to be out of keeping with the locality. Some objectors consider that the structures are more appropriately sited in a public adventure playground rather than in a domestic garden and are concerned that the structures were erected without planning permission.

Copies of these letters 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:

- 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

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 objectors and any



guidance provided by the Development Plan. Policy 1 of the Local Plan suggests that in assessing the introduction of commercial uses into residential areas, amenity should be protected in terms of design, layout and noise. Policy 14 on extensions to houses states that extensions to houses

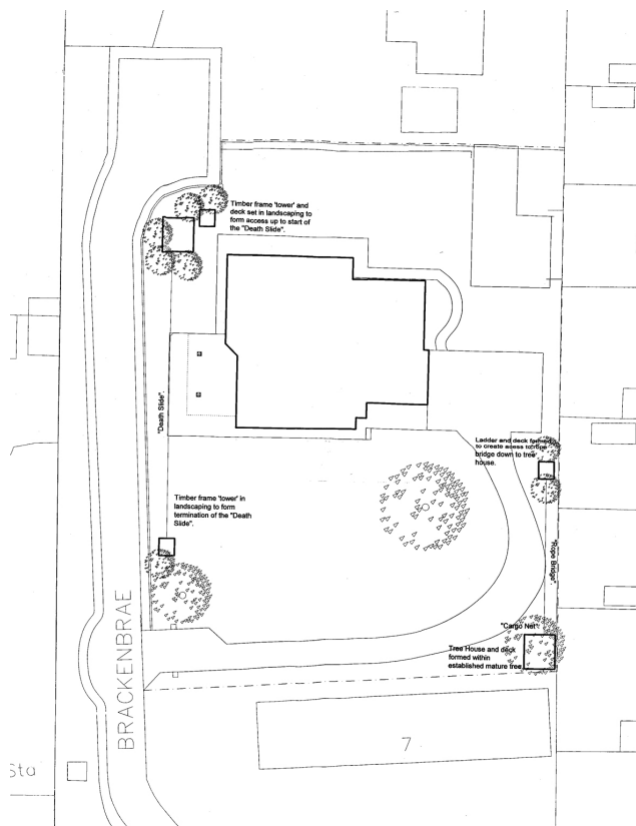
In this case it is considered that the design of the structures is satisfactory. They are all constructed of timber and generally blend into the woodland setting in which they are located.

In terms of privacy, although the structures have not been constructed in order to overlook the neighbour's properties, the impact of the elevated structures in such close proximity to the site boundaries is such that they offer clear views over what were formerly private and secluded neighbouring gardens.

The elevated rope bridge and tree house on the eastern boundary are situated well above and very close to the stone boundary wall of the garden and anyone using these structures can easily see into neighbouring gardens and windows of the houses at 4, 6 and 8 Albert Gardens. The back gardens of these houses are not long, ranging from 12 to 16 metres to the original rear elevations of the houses with rear conservatory extensions reducing these distances considerably, so that the elevated structures also overlook and are well within 18 metres of windows on the rear elevations of these houses.

It is accepted that use of the elevated walkway is of a transient nature and is in no way comparable to, say a patio, balcony or area of decking that would be used for much more extensive periods of time. Nevertheless even with intermittent use, the location, height and lack of screening of the structure coupled with the fact that prior to the erection of the structures the affected gardens enjoyed seclusion and privacy, means that the loss of privacy would be unacceptable. The tree house raises similar issues. Although it is lower than the walkway and is partly screened by trees and shrubs, it is likely to be used for longer periods of time and has a window facing south which gives oblique views into neighbouring properties.

Potential loss of privacy from the zip slide and access tower are less severe than the situation affecting residents at Albert Gardens, but again because of their height and proximity to the site boundaries, people using them can see into neighbouring gardens that previously



should not result in significant loss of privacy to the occupants of neighbouring properties.

enjoyed a reasonable level of privacy. It is considered that the retention of these structures will result in an unacceptable loss of privacy.

5 adjoining neighbours have objected to the application, principally on the grounds of loss of privacy. It is considered that the concerns of the objectors are valid.

Sometimes it is possible to screen developments so that the negative impact of overlooking can be mitigated. Unfortunately in this case the structures are so high and so close to the site boundaries that planting would have little impact for many years.

Objectors have raised concerns about noise from people using the structures at early morning and late night use, by children and adults. These concerns seem to relate to use of the zip slide only. It is considered that this is a matter that is covered by separate legislation if noise is experienced between 11pm and 7am. The potential for such disturbance in residential areas exists irrespective of the presence of garden play equipment.

The design of the structures has also been criticised with neighbours considering them to be out of keeping with the locality. Some objectors consider that the structures are more appropriately sited in a public adventure playground rather than in a domestic garden. Although the structures are high, and clearly visible from outwith the site, it is considered that they are of acceptable design and being of timber construction and mainly set against a back drop of trees will not be unduly prominent. Neighbours consider that the structures are more appropriately sited in a public adventure playground and whilst this is correct in terms of the amenity impacts in terms of loss of privacy, there is no evidence that there is any commercial activity taking place on the site.

Neighbours are concerned that the structures were erected without planning permission. This factor has no bearing on the outcome of the application but because the structures have already been erected, if Members are minded to refuse the application then enforcement action to remove the structures will be pursued.

It is concluded from the foregoing that there will be an unacceptable impact on the level of privacy enjoyed by

neighbours surrounding the site which cannot be adequately mitigated by screen planting.

Design

The design of the play equipment is satisfactory for this location, with the natural timber finish blending into the woodland setting.

CONCLUSION

It is concluded that there will be an unacceptable impact on the level of privacy enjoyed by neighbours surrounding the site which cannot be adequately mitigated by screen planting.

RECOMMENDATION

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

Reason

- 1 Use of this play equipment results in an unacceptable impact on the level of privacy enjoyed by neighbours surrounding the site due to the overlooking of the private gardens of houses to the north and east of the site and the overlooking of windows on houses to the east of the site.