

KEY INFORMATION

Ward Coldsid

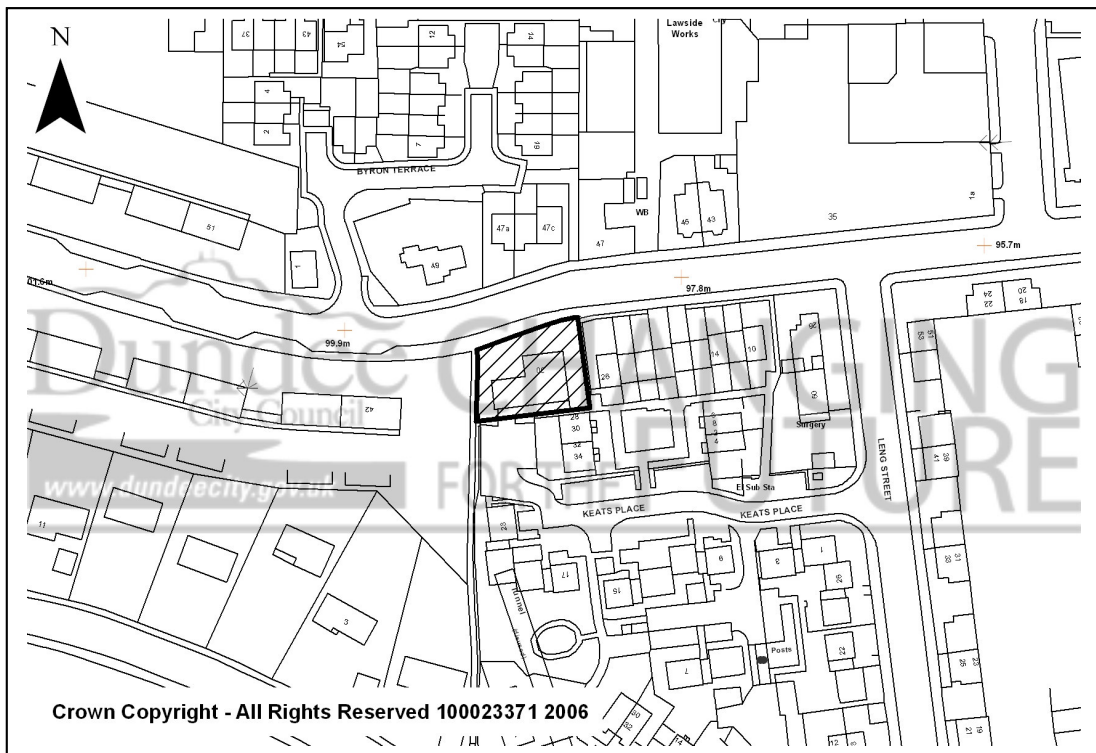
Proposal

Erection of 4 dwellings

Address30 Byron Street
Dundee
DD3 6QX**Applicant**Bridgefoot Developments
(Scotland) Ltd
30 Byron Street
Dundee
DD3 6QX**Agent**James F Stephen
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DD8 1RG

Registered 12 Feb 2009

Case Officer Eve Jones



Proposed Residential Development in Byron Street

The erection of four dwellings is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that the proposed development complies with almost all of Policy 4 - Design of New Housing of the Dundee Local Plan Review 2005 and the objection is not supported. The material considerations support the application. It is therefore recommended that planning permission **APPROVED** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a terrace of 4 x 3 bedroom houses. The houses will all have parking accessed from Byron Street and between 50m² and 78m² of private garden ground.
- The original layout proposed two pedestrian gates in the rear boundary wall to provide access to the gardens of the 2 mid terrace houses. Twelve individual letters of objection were received and a petition signed by 39 local residents. Eleven of the letters and the petition were against the proposed pedestrian gates. The layout has been changed to provide a pend access to the gardens of the middle houses and the complete retention of the boundary wall. Therefore it is considered that these objections no longer apply. The twelfth letter also objected on the grounds of loss of privacy and overshadowing of house and garden.
- The only facing windows will have opaque glass and there will be no loss of privacy. There will be no significant additional loss of sunlight or daylight to the objectors' property from the proposed two storey housing compared to the existing large commercial building. The objection is not supported.
- Dundee Local Plan 2005. Policy 4 - Design of New Housing applies and the development meets the majority of the requirements of Appendix 1. The design and materials proposed will complement the wide range of style and finish of the housing in the surrounding area.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of a terrace of 4 x 3 bedroom houses. The houses will be two storey and finished in dry dash harling with facing brick porches. The roof will be dark grey concrete tiles. Two of the houses will have two off street parking spaces and two will have one parking space, all accessed from Byron Street. All will have a path access to the rear garden. Access to the rear for the middle two houses will be via a mutual pend with a gate to ensure security. The lounge dining area has patio windows and doors facing on to the south facing gardens. Two rear gardens will be a minimum of 50m² with the remaining two 63m² and 78m². The existing brick wall around the site will be retained, with no access gates breaching the boundary.

Following substantial local objection, the original layout which proposed two pedestrian gates in the rear boundary wall has now been changed to provide a pend access to the gardens and the retention of the boundary wall.

The agent has submitted a planning statement in support of the application.

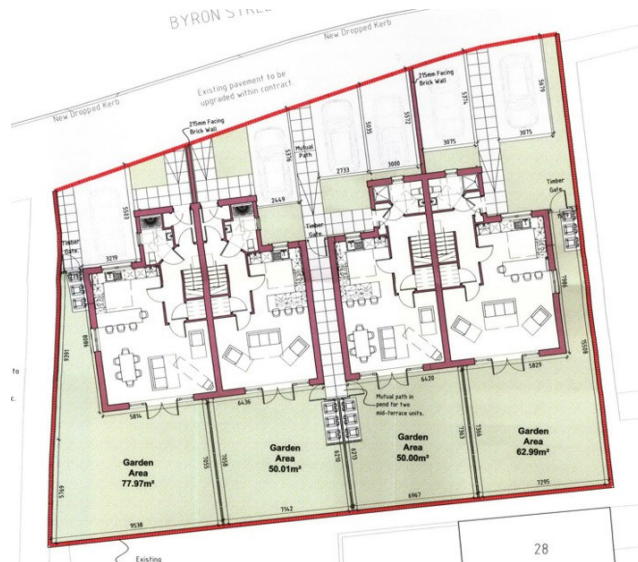
SITE DESCRIPTION

The site is broadly square and lies on the south side of Byron Street. It is currently occupied by a two storey commercial building within a paved yard. The site is level and is surrounded on 3 sides by an existing 1.7 metre high facing brick wall. The surrounding uses to the east, south, west and north west are residential of various types and ages. In the buildings of the former Lawside Dye Works to the north east, there are a number of small commercial and industrial users which generate commercial vehicle traffic in the area. St Peter and Paul Church and Primary School lie within 200 metres to the east. The site is flat with no trees but trees on the City Council owned land to the west overhang 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 4 - Design of New Housing.

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

The following sustainability policy implications arise from this application:

Policy 5 Built Environment. The policy seeks to enhance local environments through ongoing regeneration.

The issue is discussed in greater detail below.

SITE HISTORY

There is no relevant site history.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was also advertised as a development contrary to the Development Plan. Notification was carried out by Recorded Delivery but a number of letters were returned to the agent as they had not been collected by residents. One neighbouring property was mistakenly notified at a Byron Street address rather than Keats Place but this was corrected by the agent when they were advised of the mistake. The Council is satisfied that the Neighbour Notification was carried out in accordance with legal requirements.

Twelve individual letters of objection were received and a petition signed by 39 local residents. Eleven of the letters and the petition were against the original proposal for two pedestrian gates in the rear boundary wall to allow the middle two houses to have access to their rear gardens. The domestic bins would have been presented for emptying through these gates.

Following discussions with the planning officers, the layout was amended to the current proposal and all of the relevant neighbours were notified of the changes. No objection letters have been withdrawn. It is considered that, as the layout has been

changed and no longer includes gates in the rear boundary wall, the eleven letters and the petition are no longer valid objections.

The twelfth letter also objected on the grounds of loss of privacy and overshadowing of house and garden.

Members will have seen copies of the objection letters. The issues raised are discussed in the Observations section of this report below.

CONSULTATIONS

Trees - the Forestry Officer seeks detailed proposals for any required pruning to the City Council owned trees on the adjoining land to the west but considers that provided the wall is retained, the trees will not be affected by the proposed development. If Members are minded to approve the application, an appropriate condition can be applied.

Contaminated Land - the Head of Environmental Health and Trading Standards seeks to approve a Preliminary Risk Assessment prior to the commencement of any development and verify any required remediation of contaminated land prior to the occupation of any of the dwellings. If Members are minded to approve the application, appropriate conditions can be applied.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider

- 1 whether the proposals are consistent with the provisions of the development plan; and if not
- 2 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.

The site is not allocated for a specific purpose within the Dundee Local Plan Review 2005.

It is one of the objectives of the Local Plan to ensure that new housing makes

a positive contribution to the environment. Careful attention to design and detail is important, as is the relationship of the development with the surrounding area.

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."

The site lies within the Inner City and the proposed development meets the criteria in Appendix 1 in respect of the type and size of dwelling and access to rear gardens.

Garden Ground - Appendix 1 states that 30% of houses should have more than 75m² of private usable garden ground. Percentages are more difficult to apply to such a small site and only one of the four houses ie 25% has a garden in excess of 75m².

Parking - Appendix 1 seeks at least 1 space per dwelling and in addition, 40% of houses should have a garage or space for a garage. If on street parking is a problem, 30% visitor parking is also required. Two of the houses should have a garage or space for a garage to meet the policy.

Two of the houses do have the required two spaces but they are located to the front of the properties. A garage in this location is unlikely to be acceptable as it may adversely affect the appearance of the house but a car port may be possible in the future. There is no requirement for visitor parking.

Privacy - the eastmost house lies approximately 5.4 metres from the neighbouring house to the east. There is a window to the lounge/dining area on that elevation but it faces the 1.7 metre high boundary wall. The plans indicate that the window will be opaque glass to further limit the restricted view into the adjoining garden to the east. If Members are minded to approve the application, an appropriate condition can be applied to ensure that this glazing is provided and retained in

the future. The upstairs window is opaque glazing to an en-suite. It is concluded that there is no breach of the policy in respect of privacy.

It is concluded from the foregoing that the proposal fails to comply exactly with the provisions of the development plan.

Other Material Considerations

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

Sustainability Policy Implications - Policy 5 Built Environment. The policy seeks to enhance local environments through ongoing regeneration. As noted from the site description above, the site lies within a predominantly residential area. The former Rockwell works to the north have been redeveloped for housing but the buildings of the former Lawside Dye Works remain in mixed commercial uses. This is a small site which offers the opportunity for a small redevelopment of affordable houses which will add to housing stock

in this area. The site is well located relative to local services and close to the Hilltown District Centre. It is concluded that the development meets the objectives of Sustainability Policy 5.

Objection - following the amendments to the proposed layout and the removal of the gates in the rear boundary wall, it is considered that only one of the objection letters is still relevant to the revised proposals.

The objection is on the following grounds:

- loss of privacy. This has been addressed in the Policy consideration above.
- overshadowing of house and garden. Overshadowing is taken into consideration if it results in significant loss of sunlight and daylight reaching habitable rooms in a neighbouring dwelling or garden areas. The new housing will lie 5.3 metres to the west of the objectors' property. The new houses are 8 metres deep from front to back and lie slightly further north than the neighbouring house. The existing two storey commercial building lies 8.6 metres from the property and is 13.5 metres deep from front to back, extending both north and south of the neighbouring house. It is considered that there will be no significant additional loss of sunlight or daylight to the objectors' property from the proposed two storey housing.

It is concluded that the objection is not supported.

Supporting Planning Statement - the supporting statement refers to the original layout and is therefore inaccurate in certain aspects of the text and in its analysis of the policies of the Dundee Local Plan Review 2005 as they apply to this application. However the suitability of the site for residential development is agreed.

Policy 4, Appendix 1 - with regard to the slight shortfall in garden ground and the inability to provide garages to the front of the properties, it is considered that exact compliance with the plan is difficult in small sites. The garden ground is south facing and is enclosed by a brick wall. The two larger gardens are 77.97sq metres and

62.99m² and should be 75m². It is considered that the quality of the garden ground offsets the shortfall and is acceptable.

The parking provision for the development is 150% and there is on street parking. It is important that the plots have sufficient parking and the lack of opportunity to build a garage is accepted in this situation.

It is concluded from the foregoing that insufficient weight can be accorded to the objection such as to justify the refusal of planning permission contrary to the provisions of the development plan and the other material considerations support the development.

Design

The houses will have dry dash walls with facing brick porch extensions to the front and dark grey concrete tiled roofs. The design and materials proposed will complement the wide range of style and finish of the housing in the surrounding area. The main living area opens out on to the south facing garden with large patio windows and doors. This will provide solar gain and an improved living environment for the residents. Retaining the existing brick boundary wall will also enhance the security and privacy of the development.

CONCLUSION

It is considered that the proposed development complies with the majority of the requirements of Policy 4 - Design of New Housing of the Dundee Local Plan Review 2005 and the objection is not sufficiently strong to justify refusal of the application contrary to the provisions of the Plan. The material considerations support the application. It is therefore recommended that planning permission be granted with conditions.

RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 Development shall not begin until a Preliminary Risk Assessment is completed and, if required, an

Intrusive Investigation and a scheme to deal with contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:

- a assessment of the risks associated with contaminant sources, pathways and receptors specific to the proposed use of the site, and if necessary.
 - b a remediation Implementation Plan detailing measures to treat/remove contamination and mitigate risks to ensure the site is fit for the proposed use,
 - c measures to deal with contamination during construction works, and
 - d verification sampling, testing, certification and monitoring of the site to demonstrate suitability for the proposed use on completion of remediation measures.
- 3 Before any unit is occupied the measures to decontaminate the site, if necessary, shall be fully verified and approved in writing by the planning authority.
 - 4 Any works to the trees west of the site shall be in accordance with a report which has previously been submitted to the Forestry Officer for approval and if approved, the works shall be carried out only in accordance with the report. For the avoidance of doubt, the works proposed shall be in accordance with BS 3998: 1989.
 - 5 Before the any of the residential units is first occupied the car parking indicated on the approved drawings shall be provided and thereafter kept available for use at all times
 - 6 The windows on the east elevation of the eastmost house shall be glazed or re-glazed in opaque glass.
 - 7 The proposed vehicle accesses shall be formed in accordance with details to be submitted to

and approved by the City Council prior to the commencement of the development. If approved the works shall be completed in accordance with the approved details prior to the occupation of the first dwelling.

- 8 The footway ex adverso the site on Byron Street shall be reinstated in accordance with details to be submitted to and approved by the City Council prior to the commencement of the development. The works to the footway shall be completed prior to the occupation of the first dwelling.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of the amenities of the future occupants of the residential accommodation.
- 3 In the interests of the amenities of the future occupants of the residential accommodation.
- 4 To protect those landscape features which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development.
- 5 To ensure that adequate parking space is available to serve the development in the interests of traffic safety.
- 6 To protect the privacy of the occupants of the neighbouring house to the east.
- 7 To ensure that a properly constructed pavement crossing is available for use when the development is completed thereby enabling safe and convenient access to and egress from the site in the interests of the safety of road users and pedestrians.
- 8 To ensure that the footway is repaired in the interests of the safety of the future occupants and pedestrians.