

KEY INFORMATION

Ward The Ferry

Proposal

Change of use from public open space to private garden ground and erection of boundary fencing to new rear boundary

Address

Land to rear of
665 Arbroath Road
Broughty Ferry
Dundee

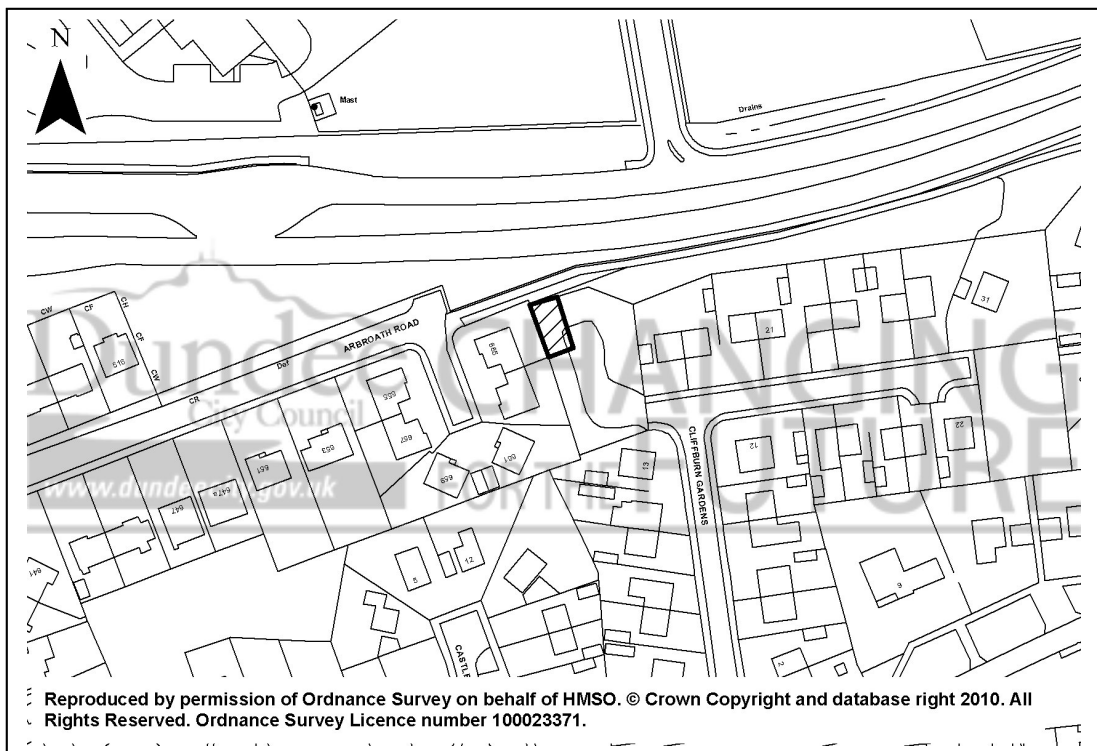
Applicant

Simon Cobley
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Broughty Ferry
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Agent

Registered 2 Nov 2010

Case Officer B Knox



Incorporation of Open Space into Garden Ground at Arbroath Road

The change of use from public open space to private garden ground is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The application is contrary to Policy 66A and 66B of the Dundee Local Plan Review 2005 but it is considered that there are material considerations of sufficient weight to justify the approval of the application with appropriate conditions to require replanting. The application is therefore recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- The application seeks permission for the change of use of an area of ground designated as public open space to private garden ground and for the erection of boundary fencing to the newly created boundary.
- The application is being referred to Committee as the application relates to land that is owned by the Council.
- The Statutory Neighbour Notification procedure was carried out and the application was advertised as a Departure to the Dundee Local Plan Review 2005. No objections have been received.
- It is considered that with the application of appropriate conditions regarding tree removal and replanting the application is acceptable.
- The application is therefore recommended for **APPROVAL** subject to conditions.

DESCRIPTION OF PROPOSAL

The application seeks permission for the change of use of an area of ground designated as public open space to private garden ground and for the erection of boundary fencing to the newly created boundary. It is understood that the applicant will lease the land on a long term basis from the Council for this purpose. The area of ground proposed to be changed measures approximately 8m by 14.9m across. The boundary fencing forming the rear boundary at present would be re-sited on the newly formed rear boundary and increased in height to 2m. A fence of similar design would be erected to the north and south boundaries of the new garden area. The application proposes the removal of eight trees currently occupying the open space.

SITE DESCRIPTION

The application site is located to the south of the main A92 Arbroath Road. The applicant dwelling is situated on the minor section of road also known as Arbroath Road in an area which forms a small residential cul de sac away from the main route. The open space area the subject of the application is accessed from the rear of Cliffburn Gardens. There is generous tree cover in the open space area and this is mainly comprised of pine varieties of tree. The trees are of substantial height and provide visual interest as well as shelter.

The associated applicant dwelling is a semi detached house the gable of which faces north onto the main A92 Arbroath route. A footpath/cycle path runs to the north of the property along the edge of the main road

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 66A: Protection of Playing Fields and Sports Pitches - there is a presumption in favour of retaining playing fields and sports pitches in Dundee. They should not be redeveloped unless the Council is satisfied that they are no longer required for their original purpose and there is a clear long term excess of pitches, playing fields and public open space in the wider area, having regard to the site's recreational and amenity value plus the needs of future generations. In addition, the following criteria must also be satisfied:



- the proposals affect part of the site that has lesser sports and amenity value and will improve the sports, recreational and amenity value across the remainder of the site (eg grass pitches will be replaced on-site with an all weather surface); or
- compensatory open space of at least equal benefit and accessibility will be provided in or adjacent to the community most directly affected, resulting in an overall improvement to existing facilities and the amenity of the area, eg relocating existing pitches to a more central location within the community most directly affected; or
- development plans require the site for an important, strategic development, following examination of all possible alternative sites, and replacement provision of equal community benefit will be created in or adjacent to the community most directly affected.

Proposals must be consistent with policies elsewhere in the Plan and must not adversely affect the character or setting of an Historic Garden or Designed Landscape. Replacement provision must be made available in a playable condition before the existing facilities become unavailable. Where this is impractical, developers must provide sufficient justification and the Council will require replacement in the short term to an alternative agreed timetable. Compensatory arrangements must be secured by applicants to ensure that the sporting needs of displaced users are suitably catered for, to the satisfaction of the Council.

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

There are no specific sustainability policy implications arising from this application.

SITE HISTORY

There is no planning history associated with the site.

PUBLIC PARTICIPATION

The Statutory Neighbour Notification procedure was carried out. The

application was also advertised as a departure to the Development Plan in the local press.

No objections have been received.

CONSULTATIONS

The Council's Forestry Officer has advised that the removal of all eight trees as proposed by the applicant would have the potential to have a detrimental effect upon the remaining trees in the open space area. In addition, their removal would be likely to have a negative impact upon the visual amenity of the surrounding area.

The Forestry Officer has advised that selective removal of trees may be possible with sufficient replanting.

OBSERVATIONS

Statutory Requirements

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

The Development Plan

The application proposes the change of use of a piece of land measuring approximately 8m by 14.9m. In terms of the Dundee Local Plan Review 2005, the land is designated as being Open Space. It is proposed to change the use from public open space to private garden ground of the applicant whose dwelling adjoins the open space on the basis that the applicant will lease the land from the Council on a long term basis. It is also proposed to relocate the rear boundary fencing to the newly created rear boundary and provide additional fencing to the new north and south boundaries of the enlarged garden area. The additional fencing would be of similar style and design as is existing.

As the land is designated as Open Space in the Dundee Local Plan Review 2005 Policy 66B is relevant. This policy states that there will be a presumption against the development of all other open space within the Local Plan area unless amongst other things, the broad principles of criteria Listed in Policy 66A are satisfied.

Even though no operational development is proposed, other than the erection of a new fence, since the proposal would still result in the loss of public open space it is considered to be relevant to assess whether the proposal is in accordance with the broad principles of Policy 66A.

The aim of Policy 66A seeks to ensure that the open space network is not undermined by piecemeal erosion of existing open space. The Policy approach makes a clear distinction between playing fields and sports



pitches and other open space. The majority of the criteria in Policy 66A are targeted towards the retention of playing fields and sports pitches but it is considered that the regard to the amenity value of open space is a relevant consideration.

The existing trees on site are of a pine variety and provide limited visual screening. However, it is considered that their presence also adds visual interest to the area. There are a number of other pine trees in the open space area making the area relatively well covered in tree species and providing habitats for surrounding wildlife.

The application has proposed the removal of eight trees in the area which is to become garden ground. It is considered that this would have a detrimental effect upon the amenity of the surrounding area in terms of the visual impact due to the size and scale of the species to be removed.

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

Other Material Considerations

Forestry Officer Advice

The Forestry Officer advised that the loss of the eight trees proposed to be felled would be detrimental to the visual appearance of the area. However, it is considered that it would be appropriate to allow the removal of four trees in the first instance in order for the impact upon the other trees in the open space area to be assessed. As part of this, replanting of alternative species at locations to be agreed would be required. It is considered that if these issues are made the subject of two separate conditions to any grant of permission, the visual amenity of the area can be protected.

It is considered that this is of sufficient weight to lay aside the provisions of the development plan in this instance.

Design

The small additional sections of fencing are to be of similar design to the existing fencing which is of a standard design. It is therefore considered to be acceptable for the house and surrounding area.

CONCLUSION

The application is contrary to Policy 66A and 66B of the Dundee Local Plan Review 2005 but it is considered that there are material considerations of sufficient weight to justify the approval of the application.

RECOMMENDATION

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

- 1 Prior to the commencement of any work on site a landscaping plan shall be submitted to and approved in writing by the Council. The landscaping plan shall include details of the phased removal of trees and a scheme of phased replanting at locations and of species to be agreed.
- 2 The approved landscaping scheme shall be completed in all respects within six months of the change of use. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years from the completion of the scheme shall be replaced by trees or shrubs of similar size and

species to those originally required to be planted.

Reasons

- 1 In order to protect the visual amenity of the surrounding area.
- 2 In order to ensure the visual amenity of the surrounding area.