

**KEY INFORMATION**

Ward East End

**Proposal**

Change of use from public open space to private garden ground

**Address**

32 Southampton Place  
Dundee  
DD4 7PW

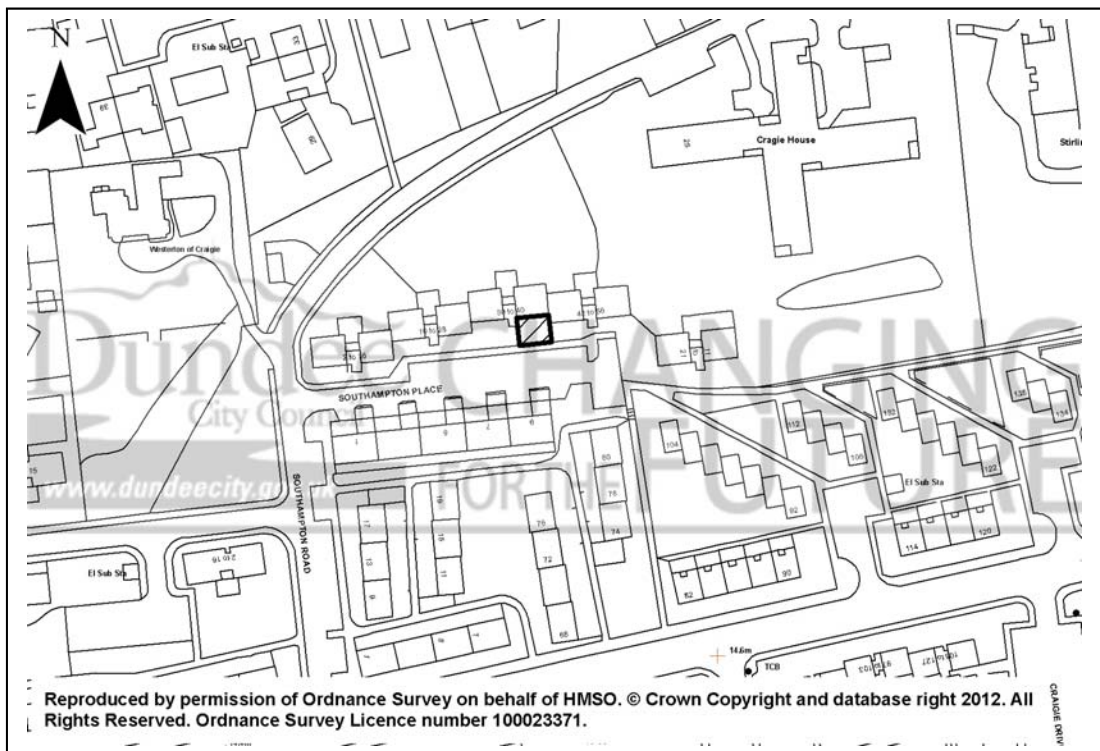
**Applicant**

Alistair Coull  
32 Southampton Place  
Dundee  
DD4 7PW

**Agent**

Registered 28 Nov 2011

Case Officer P Frickleton



## Formation of Private Garden Ground at Southampton Place

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 proposals comply with the requirements of the Development Plan. There are no material considerations that would justify laying aside the provisions of the Development Plan to withhold planning permission. It is therefore recommended that the application is **APPROVED** subject to conditions.

**SUMMARY OF REPORT**

- Planning permission is sought to change the use of some 66.61m<sup>2</sup> of public open space to private garden ground.
- Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 is considered to be relevant to the determination of the application.
- Following neighbour notification procedures, one letter of objection was received which raises issues in relation to visual amenity; loss of public access; public safety and reduction in footpath width.
- The application is being referred to Committee as the application relates to land that is owned by the Council.

## DESCRIPTION OF PROPOSAL

The application seeks permission for the change of use of some 66.61m<sup>2</sup> of public open space to private garden ground. A metre high timber fence and gate has been erected to enclose the area.

In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee because the Council owns the application site.

## SITE DESCRIPTION

The application site is located to the south of 32 Southampton Place. The immediate area surrounding the application site comprises largely of 3 and 4 storey flatted dwellings and single storey terraced properties arranged in small cul-de-sac streets.

It is a small area of open space which provides part of the communal grassed area for the flatted properties to the north. Other than the application site which has been fenced, the remainder of the grassed area remains open plan. The open space faces onto the public footpath and cul-de-sac to the south.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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

### Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities - the City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local

residents by virtue of design, layout, parking and traffic movement issues, noise or smell.



### 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 for the site relevant to the determination of this application.

## PUBLIC PARTICIPATION

The statutory Neighbour Notification procedure was carried out. As a result one letter of objection has been received from a neighbouring resident on the grounds that the fencing, which has already been erected, is detrimental to the open plan nature of the ground to the front of the flatted properties. The area was used by many of the residents to relax and congregate on a pleasant sunny day. They believe the kerbing stones located around the boundary of the site to be hazardous and along with the fencing will reduce the width of the footpath especially for those using a pushchair; mobility scooter or wheelchair.

Members will already have had access to the letter of objection and the issues raised are considered in the Observations section below.

## CONSULTATIONS

No adverse comments were received from any of the consultees.

## OBSERVATIONS

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 provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

It is the aim of Policy 1 (Vibrant and Sustainable Communities) to support proposals that seek to enhance the level of environmental quality afforded to neighbouring properties. The metre high fencing already erected around the site to contain the garden area is the only form of boundary enclosure in the immediate area and as such, in its

present form, is considered to detract from the visual amenity of the area. However, under Class 7 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) a fence of this height would have been erected without the need for planning permission. Should the Committee be minded to grant planning permission, a condition should be imposed to ensure that the fence be finished in a more appropriate colour which better reflects the surrounding area.

The change of use of this area of land would result in the property at 32 Southampton Place having its own private garden area directly outside the principal elevation of the property. It is considered that the change of this small area of land to that of private garden ground shall not have an adverse impact on the amenities of neighbours in terms of noise or privacy. In addition to this, it is considered that the loss of a small part of the grassed area will not detract significantly from the visual amenity of the area. The proposal therefore complies with Policy 1 of the Local Plan. The green space is not allocated as open space in the Local Plan but rather is allocated as part of the existing residential area at this location.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

### **Other Material Considerations**

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

### **Views of Objectors**

One letter of objection has been received from a neighbouring resident on the grounds that the fencing, which has already been erected, is detrimental to the open plan nature of the ground to the front of the flatted properties. He states that the area was used by many of the residents to relax and congregate on a pleasant sunny day. He believes the kerbing stones located around the boundary of the site to be hazardous and along with the fencing will reduce the width of the footpath especially for those using a pushchair; mobility scooter or wheelchair.

The design of the fencing and loss of open space has been addressed in the assessment of the application under Policy 1 (Vibrant and Sustainable

Communities) of the Dundee Local Plan Review 2005. The width of the existing footpath has not been altered or obstructed by this proposal, the kerb stones run along the edge of the former grassed area with the fencing set back from the edge.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

### **Design**

The design of the fence, in its present form, is out of keeping with the area and detracts from the visual amenity of the area. Should the Committee be minded to grant planning permission, a condition should be imposed to ensure that the fence be finished in a more appropriate colour which better reflects the surrounding area.

### **CONCLUSION**

The use of the site as garden ground is acceptable in a residential area and the proposal will not have an adverse impact on the amenities of neighbours. The loss of a small part of the open space will not detract from the visual amenity of the area. The proposed development complies with Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005.

### **RECOMMENDATION**

It is recommended that consent be GRANTED subject to the following condition(s):

- 1 The boundary fence hereby approved shall be finished in a dark stain, details of which should be agreed in writing by the City Council, and if agreed, the works shall be carried out only in full accordance with such agreed details by 30 June 2012.

### **Reason**

- 1 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.