

**KEY INFORMATION**

Ward The Ferry

**Proposal**

Change of use of open space to garden ground

**Address**

Land to the West of  
17 Elcho Drive  
Broughty Ferry  
Dundee

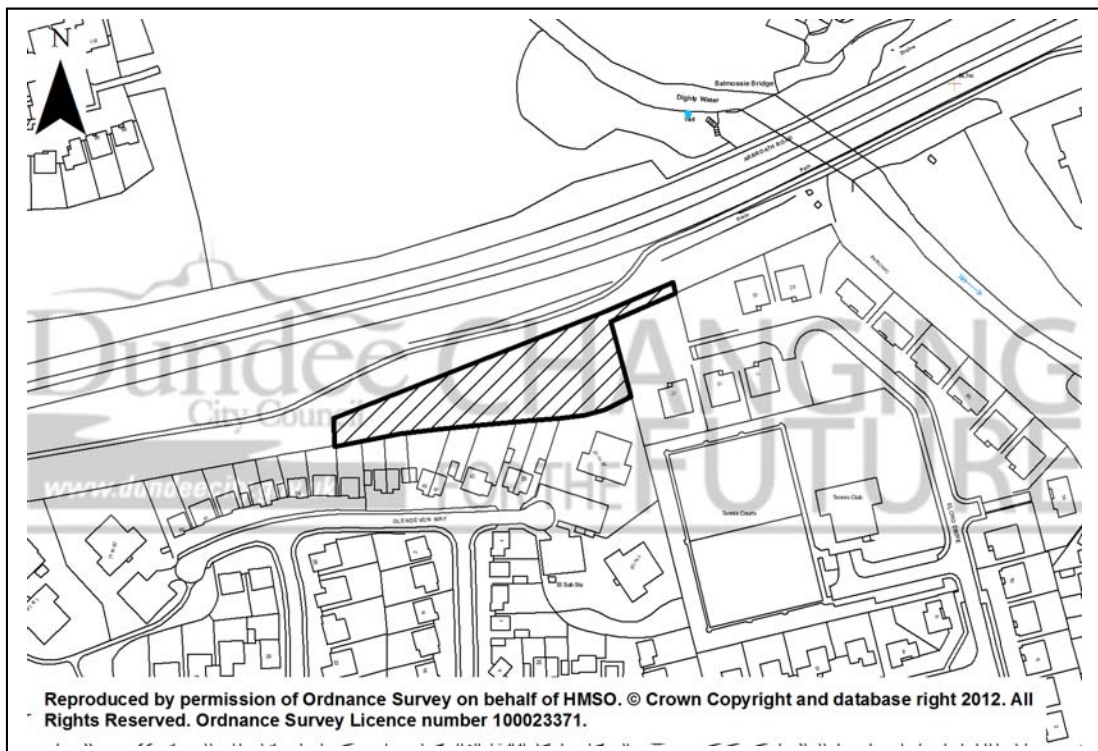
**Applicant**

Colin Cromar  
17 Elcho Drive  
Broughty Ferry  
Dundee  
DD5 3TB

**Agent**

Registered 2 Aug 2012

Case Officer P Frickleton



## Change of Use to Garden Ground at Elcho Drive

The change of use of open space to 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 0.312ha of open space to private garden ground.
- The proposal falls to be considered under Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005.
- The Council has followed the statutory neighbour notification procedures stipulated by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and the application was advertised in the local press as a result 4 letters of objection have been received.
- In accordance with the Council's mandatory scheme of delegation this application requires to be reported to the Development Management Committee for determination as the site is owned by the Council.

## DESCRIPTION OF PROPOSAL

The application seeks permission for the change of use of some 0.312ha of waste ground to private garden ground. The triangular area of ground proposed to be changed measures approximately 150.5m by 31.5m at the widest point, narrowing down to a width of 10m. It is understood that the applicant will lease the land on a long term basis from the Council for this purpose. The lease on the ground will be a garden ground lease which grants access to neighbours for maintenance of boundary treatments etc but restricts building on site.

The applicant proposes to plant a beech hedge around the perimeter of the land, in the short term a one metre high post and wire fence will be erected to protect the beech hedge as it matures. An access gate will be provided on the western boundary of the site to allow access for adjoining properties who require access for maintenance purposes.

In accordance with the Council's mandatory scheme of delegation this application requires to be reported to the Development Management Committee as the site is owned by the City Council.

## SITE DESCRIPTION

The application site is located to the south of the main A92 Arbroath Road and runs parallel to the northern boundaries of the properties at 37 to 55 Glendevon Way. The immediate area surrounding the application site is comprised largely of detached and semi-detached residential properties arranged in small cu-de-sac streets, the local tennis club and courts are located to the south east of the site.

The land which is the subject of this application was overgrown waste land comprising of a number of mature trees and shrubs, the applicants have been maintaining the land keeping it tidy and well kept. The southern boundary of the site is heavily planted with trees and shrubs which screens the rear garden of the dwellings in Glendevon Way.

The application property is a detached 1.5 storey dwelling located on the western edge of the Elcho Drive cul-de-sac. The property is accessed from

the existing hammerhead through a gated access. The timber fencing along the western boundary of the dwelling separates the waste ground from the existing garden ground; however a gate has been formed in the fence which provides access to the waste ground for maintenance purposes. This gate is the only form of access to the ground.

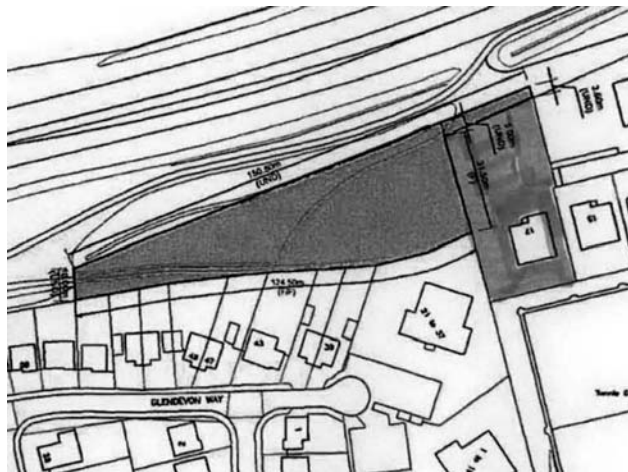
## POLICY BACKGROUND

### TAYplan Strategic Development Plan 2012-2032

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.

### 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 was carried out and the application advertised. As a result four letters of objection has been received from neighbouring residents on the grounds of increased noise; overlooking; privacy; detrimental to environment; contrary to Local Plan policy and access for maintenance of boundary treatments.

Members will already have access to the letters 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 with 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 to support proposals that seek to enhance the level of environmental quality afforded to neighbouring properties. The area is tidy and well kept since the applicant began maintaining the ground. There is no obvious function of the area due to the location, which is screened from the dwellings on Glendevon Way, particularly as access is restricted.

The change of use of the piece of land would result in the rear garden area of 17 Elcho Drive changing from approximately 0.0967ha to approximately 0.408ha. It is considered that the change of this 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 such an area will not detract significantly from the visual amenity of the area. The proposed development 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

Four letters of objection have been received from neighbouring residents on the grounds of increased noise; overlooking; privacy; detrimental to environment; contrary to Local Plan policy and access for maintenance of boundary treatments.

The existing bund along the northern boundary of the properties in Glendevon Way was built to minimise the noise pollution from the redevelopment of Arbroath Road. There are concerns from the neighbours that the change of use will increase the noise between the road and residential properties. There are also concerns that there will be issues with overlooking and lack of privacy.

The amenities of neighbours in terms of noise and privacy have been considered under Policy 1 of the Development Plan where it was concluded that there will be no negative impact. Although it is proposed to change the designated use of the land, the bund will remain in situ providing a barrier between Arbroath Road and the properties in Glendevon Way. Should the committee be minded to approve the application a condition shall be attached to the consent requiring the existing bund to be retained and restricting the removal or works to existing trees along the southern boundary of the site.

Concerns have also been raised over access to maintain boundary hedges. Although this is not a material planning consideration it is the case that the lease on the ground will be a garden ground lease which grants access to neighbours for maintenance of boundary treatments. The applicant has also confirmed that an access gate is to be provided for these purposes.

There are concerns over the future use of the land; the change of use involves changing the use to private garden ground. If Committee are minded to approve this application the applicant shall only be able to use the land as such.



Issues have also been raised with regards to the terms of the lease; this is not a material planning consideration and as such has not been taken into account in the assessment of the proposals against the Development Plan.

It is concluded that the material planning considerations weigh against the proposed development but are not of sufficient weight to suggest that the Development Plan should not be accorded the priority which the statute has given it. It is therefore recommended that Planning Permission be granted with conditions.

## Design

As the proposal involves only changes to the use of the land design is not a pertinent issue on considering this application.

## 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 this area of 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 conditions:-

- 1 None of the existing trees along the southern boundary of the site shall be felled, topped, lopped or otherwise interfered with without the prior written consent of this Authority.
- 2 The existing noise attenuation bund shall be retained and maintained as such in perpetuity.

## Reasons

- 1 To protect the amenities of the nearby adjacent properties in the locality.
- 2 To protect the amenities of the nearby adjacent properties in the locality.