

Further Time Sought to Commence Old Glamis Road Housing

KEY INFORMATION

Ward Strathmartine

Address

Land to North of Balgowan Avenue and West of Old Glamis Road, Dundee

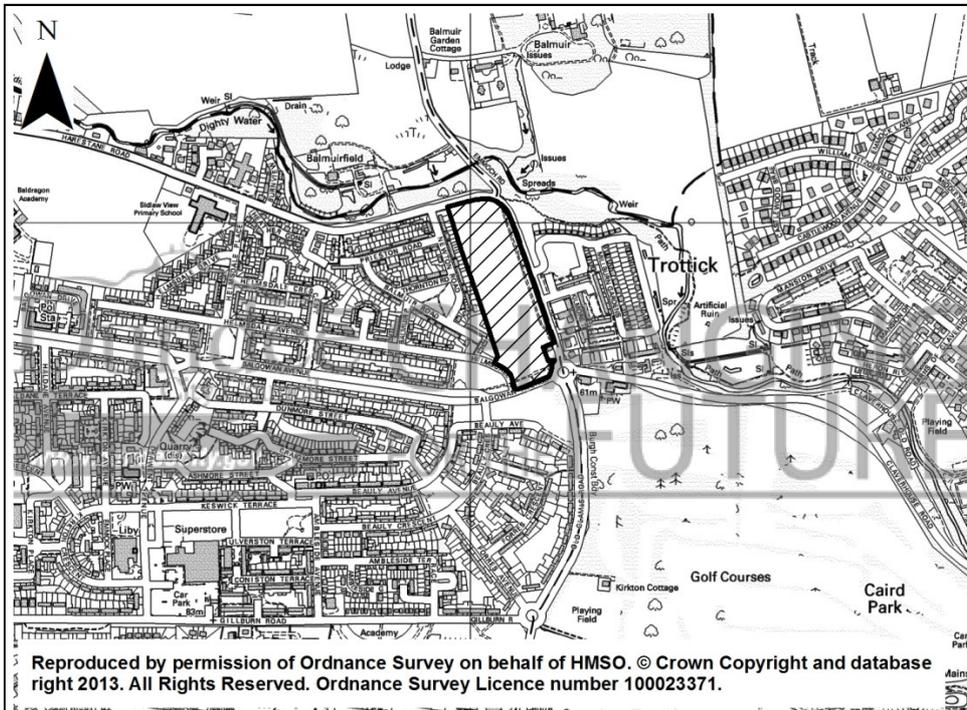
Applicant

H & H Properties
FAO Stephen Forbes
71 Blackness Road
Dundee
DD1 5PD

Agent

Registered 9 October 2013

Case Officer Beverley Knox



SUMMARY OF REPORT

- This application seeks planning permission under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended to vary Conditions 1 of planning application ref: 08/00030/FUL to allow additional time for development to commence. Therefore, the principle of development cannot be considered again at this time. All other conditions can, however, be reconsidered.
- No letters of objection or representation have been received.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=MUCUJJGC06600>.

RECOMMENDATION

The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is recommended that the application for the variation of Condition 1 to allow the development approved by planning application ref: 08/00030/FUL additional time to commence is **APPROVED** subject to conditions.

1 DESCRIPTION OF PROPOSAL

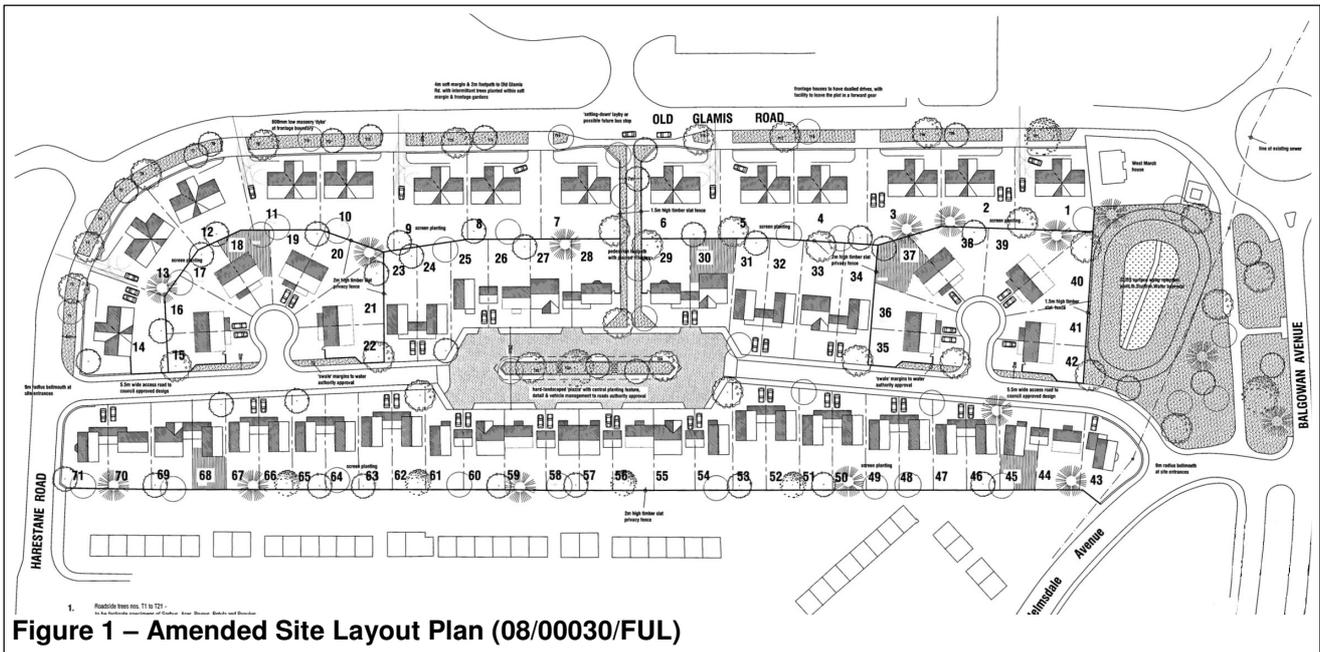


Figure 1 – Amended Site Layout Plan (08/00030/FUL)

- 1.1 This application seeks planning permission under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended to vary Condition 1 related to planning application ref: 08/00030/FUL to extend the validity of planning permission for a further 3 years.
- 1.2 Planning application ref: 08/00030/FUL was granted permission for the erection of 71 houses. Fifty one of these were 3 bedroom dwellings and a further 20 were 4 bedroom houses. The site was formerly occupied by a low rise development which has been demolished.
- 1.3 The proposed houses were to take the form of one and a half and two storey properties. The design of the houses was intended to reflect a “Scandic” influence with low pitch roofs and use of cladding to portray a timber frame tradition common in Scotland while utilising modern sustainable materials and construction methods to achieve a high level of environmental efficiency.
- 1.4 The application was recommended for approval and granted planning permission at the Development Management Committee.
- 1.5 In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee as the scheme is for over 50 dwellings and therefore the proposal falls within the meaning of a Major planning application as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

2 SITE DESCRIPTION

- 2.1 The application site is situated to the west of Old Glamis Road and the south of Harestane Road and takes the form of a green landscaped area. The site was allocated in the previous Dundee Local Plan Review 2005 for housing but was not allocated in the current Dundee Development Plan as planning permission had been granted by that time for the above housing development and so it was removed from the list of sites.

- 2.2 The site was laid out in grass and is currently in a disused state but was formally occupied by housing which has since been demolished.



Figure 2 – Site Photo

3 POLICY BACKGROUND

- 3.1 The following plans and policies are considered to be of direct relevance:

DUNDEE LOCAL DEVELOPMENT PLAN

- Policy 7: High Quality Design
Policy 8: Housing Land Release
Policy 9: Design of New Housing

NON STATUTORY STATEMENTS OF COUNCIL POLICY

In May 2003, the Council's Planning and Transportation Committee agreed that the Trottick Site Planning Brief be approved as supplementary planning guidance to then then Finalised Draft Dundee Local Plan 2002. The Council's Development Quality Committee agreed that the Brief be a material consideration in the determination of planning applications for the site.

Although the Dundee Local Development Plan has now been adopted and supersedes the above Plan, the brief remains in force and its content remains relevant.

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 The site was occupied by low rise housing many years ago. These were demolished and the site was laid out in grass.
- 4.2 Planning approval was granted in 2008 for the erection of 71 dwellings. (08/00030/FUL). The site has become overgrown in the interim period since the above approval.

5 PUBLIC PARTICIPATION

- 5.1 The Statutory Neighbour Notification procedure was carried in relation to the application and no comments have been received.

6 CONSULTATIONS

- 6.1 No consultations were received.

7 DETERMINING ISSUES

- 7.1 **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 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.

Since the approval of the original application, the Dundee Local Development Plan has been adopted. The Policies relevant to the proposals are broadly similar to those contained in the previous Plan and do not impact upon the principle of development in this location. The proposed variation of Condition 1 relating to the time for the application to commence does not affect the form and principle of the development approved by planning application 08/00030/FUL. Therefore the proposal does not raise any new Development Plan policy issues on this basis.

Therefore, the requirements of the Dundee Local Development Plan are met.

OTHER MATERIAL CONSIDERATIONS

A CIRCULAR 4/1998 – THE USE OF CONDITIONS IN PLANNING PERMISSION

- 7.2 The purpose of this circular is to provide guidance on the use of conditions in granting planning permission. Circular 4/1998 stipulates that while the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. The Circular demonstrates that conditions that are fair, reasonable and practicable satisfy 6 tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

- 7.3 Condition 1 of planning application ref: 08/00030/FUL states:

"The development hereby permitted shall be commenced within 5 years from the date of this permission."

- 7.4 Paragraph 52 of Annex A of Circular 4/1998: The Use of Conditions in Planning Permissions suggests that, as a general rule, applications for the "renewal" of permissions should only be refused where:

- 7.5 There has been some material change in planning circumstances since the original permission was granted - although the Dundee Local Plan Review 2005 has now been superseded by the Dundee Local Development Plan, there is no significant change in the policies relevant to this development such as to result in a material change in planning circumstances since planning application ref 08/00030/FUL was approved.
- 7.6 In these circumstances, the Council has the power to reconsider all other conditions attached to original permission. This has been done in this case, particularly as the previous Local Plan has now been superseded by the Dundee Local Development Plan. It is considered in this instance that there is no requirement or necessity to alter the remaining conditions.
- 7.7 There is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area - it is the understanding of the Council that the previous developer fell into receivership. The current developer purchased the site as a result of this. It is therefore considered that there is no reason to suggest that there will be continued failure to begin the development.
- 7.8 The application is premature because the permission still has a reasonable time to run - it is considered that Criteria (C) of Paragraph 52 is not relevant to the proposed variation of condition 1 of planning application ref: 08/00080/FUL as the expiry date has now been reached. As the application was submitted in due time, it is still valid to extend the time period in the way proposed.
- 7.9 The proposals do not fall under the "refusal of planning permission" criteria of Appendix A of Circular 4/1998 The Use of Conditions in Planning Permissions. Therefore, there are no material planning reasons for refusal of planning permission in this instance.
- 7.10 **It is concluded from the foregoing that there are material considerations that support approval of planning permission for the variation of Condition 1 of planning application ref: 08/00080/FUL to extend the period of validity of planning permission for a further 3 years.**

8 CONCLUSION

- 8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission but there are material considerations to support approval of the application. Therefore, it is recommended that planning permission is granted for the variation of Condition 1 of 08/00030/FUL.

9 RECOMMENDATION

- 9.1 It is recommended that consent be GRANTED subject to a condition:
- 1 Condition 1 relating to 08/00030/FUL is amended to the following: the development hereby permitted shall be commenced within 3 years from the date of this permission

REASONS

- 1 In order to ensure that development commences within a reasonable period of time.