

# House Proposed In Garden of 42 Victoria Road

## KEY INFORMATION

**Ward** The Ferry

### Address

Garden Ground to South of  
42 Victoria Road, Broughty  
Ferry

### Applicant

Mrs Anne Marr Deanscourt  
42 Victoria Road  
Broughty Ferry  
Dundee DD5 1BJ

### Agent

Mr Peter Inglis  
Peter Inglis Architects  
Prospect III Gemini Crescent  
Dundee DD2 1SW

**Registered** 24 March 2014

**Case Officer** Paul Macari



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## SUMMARY OF REPORT

- This application seeks planning permission for the erection of a single storey dwellinghouse in the garden grounds and the formation of a new gateway at 42 Victoria Road, Broughty Ferry.
- Policies 7, 9, 12, 29, 42, 48 and 50 of the Dundee Local Development Plan are relevant to the outcome of this application.
- The proposals are contrary to Policy 12 of the Dundee Local Development Plan.
- One letter of objection has been received from a neighbouring resident.
- Broughty Ferry Community Council has objected to the proposed development.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=N2XYWNGCIC000>.

## RECOMMENDATION

The proposal fails to satisfy the requirements of the Development Plan. However, there are material considerations that justify approval of planning permission. Therefore, the application is recommended for APPROVAL subject to conditions. Report by Director of City Development.

## 1 DESCRIPTION OF PROPOSAL

1.1 This application seeks planning permission for the erection of a single storey dwellinghouse in the garden grounds of 42 Victoria Road, Broughty Ferry.

1.2 The proposed house will be erected on the site of the existing tennis court. Access to the site will be taken from the existing vehicle access to 42 Victoria Road from Victoria Road. A new access driveway will be formed along the southern boundary of the site to provide access to the proposed house.

1.3 The proposed house will be positioned to the south of the application site and will take the form of a single storey contemporary dwelling. The house will have mono pitched roof planes finished in standing seam zinc cladding with large areas of glazing providing views of the extensive side and rear gardens. The walls of the proposed house will be finished in white render with the southern elevation finished in ashlar. Internally the proposed house will comprise of a kitchen, dining/family area, lounge, bathroom and three bedrooms. The master bedroom will have en-suite bathroom.

1.4 In accordance with the Council's Scheme of Delegation this application is being reported to the Development Management Committee because an objection has been received from Broughty Ferry Community Council and the application is recommended for approval.

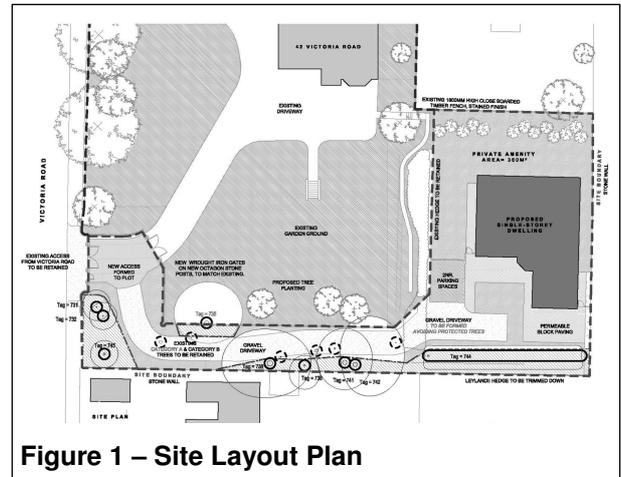


Figure 1 – Site Layout Plan

## 2 SITE DESCRIPTION

2.1 The property at 42 Victoria Road is located on the south eastern side of the junction between Victoria Road and Strathern Road. The property at 42 Victoria Road is B listed and comprises of a 2 storey stone built house with a pitched roof finished in slate. There is a modern extension to the western elevation of the existing house.

2.2 The property at 42 Victoria Road is enclosed by 1.5-3m high stone built walls. There are mature trees which reinforce the eastern, southern and western boundaries. Access to the site is taken from Victoria Road with a paved driveway leading to the front of the house, the extension to the western elevation and the eastern side of the house.

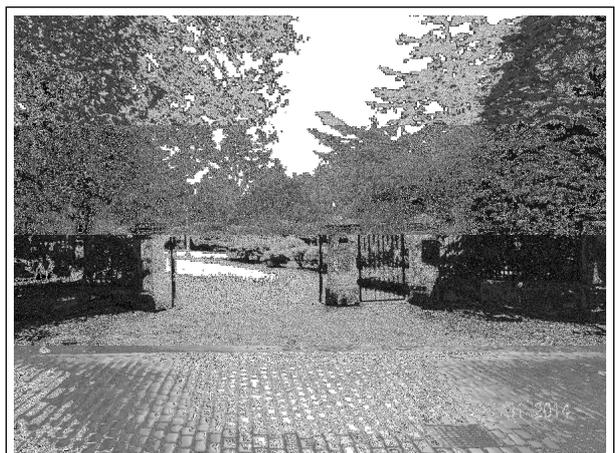


Figure 2 – View From 42 Victoria Road Looking East

Access to the site is formed by two ornate stone gate piers and ornate black painted iron gates. The site slopes from north to south. The southern sector of the site to the south of the driveway forms an ornate lawn and is at a lower level than the northern sector of the site. The lawn is enclosed by mature trees to the south and east.

2.3 There is a former gate house that is now an independent dwelling unit located to the north east of the house at 42 Victoria Road. The curtilage of the former gate house is separated from the curtilage of the house at 42 Victoria Road by 1.8m high screen fencing, shrubs and beech hedging. This property fronts on to Strathern Road. The former gate house takes the form of a single storey stone built building with a pitched roof. There is a traditional pitched roof dormer on the northern elevation of the building that provides accommodation within the roof space of the building.



**Figure 3 – View From 42 Victoria Road Looking South**

2.4 To the south of the former gate house in the south eastern corner of the site there is a sunken tennis court enclosed by 2-3m high chain link fencing. The tennis court is surrounded by mature trees and shrubbery.

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## 3 POLICY BACKGROUND

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

### **DUNDEE LOCAL DEVELOPMENT PLAN**

Policy 7: High Quality Design

Policy 9: Design of New Housing

Policy 12: Development in Garden Ground

Policy 29: Low and Zero Carbon Technology in New Development

Policy 42: Sustainable Urban Drainage

Policy 48: Listed Buildings

Policy 50: Development in Conservation Areas

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

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## 4 SITE HISTORY

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4.1 Planning application ref: 13/00818/FULL sought permission for the erection of a new house and garage in the garden grounds of 42 Victoria Road. This application was withdrawn by the applicant after concerns were raised by the Case Officer over the loss of trees/hedging, the impact of the proposed garage on retained trees and alterations to the existing vehicular access and listed walls, gate piers and gates.

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## 5 PUBLIC PARTICIPATION

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5.1 The Council has followed the statutory neighbour notification process. This application has also been advertised in the Dundee Evening Telegraph.

- 5.2 One letter of objection has been received from a neighbouring resident concerned about:
- adverse effect on listed building;
  - adverse effect on setting of listed building;
  - adverse impact on streetscene/Conservation Area;
  - inadequate drainage;
  - inappropriate development in Conservation Area;
  - poor design;
  - privacy of neighbouring properties affected; and
  - trees/landscape affected.
- 5.3 Members will have had access to these letters and the issues raised are considered in the Observations section below.

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## 6 CONSULTATIONS

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- 6.1 **Broughty Ferry Community Council** – has objected to the proposed development on the grounds that:
- the repositioning of the listed gates will adversely impact on the Conservation Area and the setting of the B Listed Building at 42 Victoria Road;
  - the modern design is inappropriate for inclusion within the Conservation Area;
  - the house will be visible from Victoria Road and will therefore impact on the character of the Conservation Area;
  - there will be a loss of trees;
  - the proposal does not respect the prevailing density of development within the Conservation Area; and
  - the proposed driveway should be finished in materials matching the existing driveway.
- 6.2 **Head of Environmental Protection** – has recommended that informatives relating to contaminated land and the use of smokeless fuels are incorporated into the grant of planning permission.
- 6.3 **Forestry Officer** – has viewed the submitted Tree Survey and has recommended that tree protection measures, tree replacement and additional landscaping are controlled by conditions. Given the significance of the retained trees on either side of the proposed driveway the Forestry Officer has also recommended that a tree bond is put in place so that these trees can be replaced if any damage to them should occur during construction.

## 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.

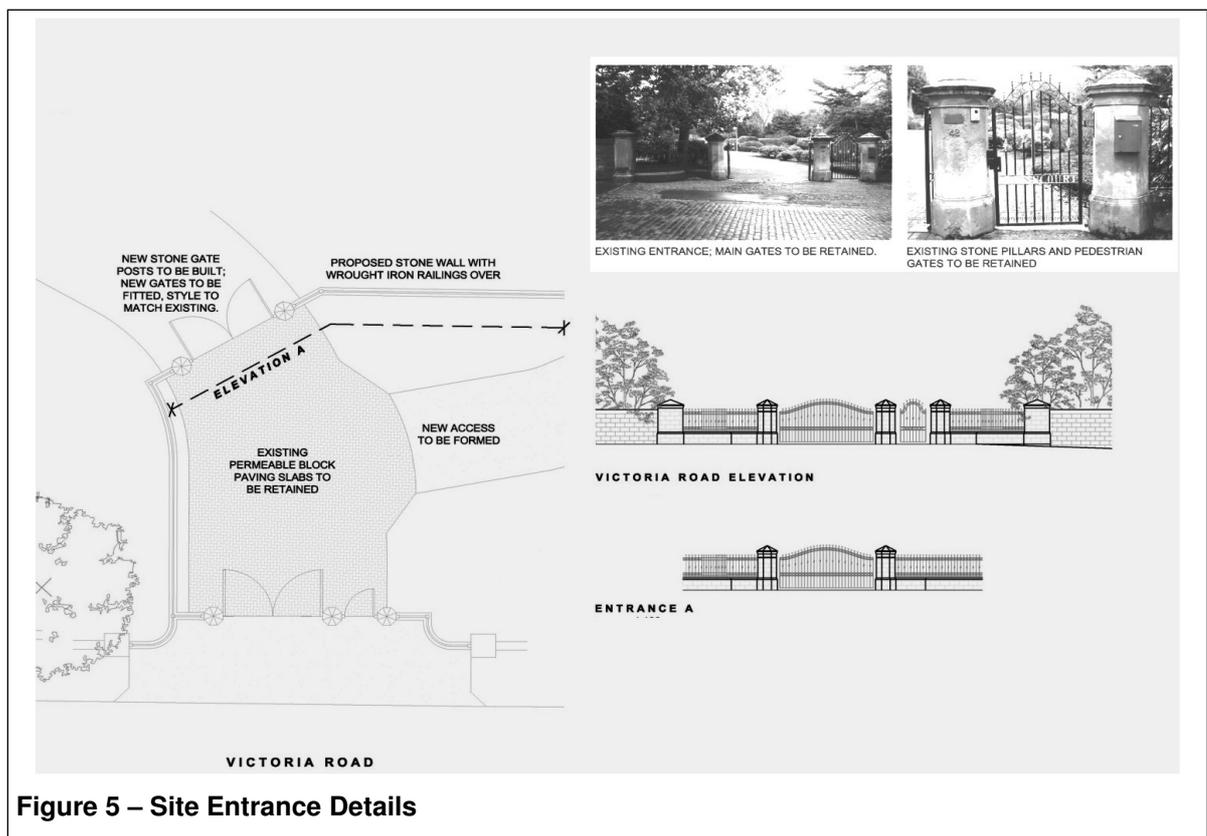
#### DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 **Policy 7: High Quality Design** – requires all development to contribute positively to the quality of the surrounding built and natural environment.
- 7.3 The proposed development is of a design and layout that respects the surrounding density of development. The modern design of the house in addition to the high quality finishing materials ensures that the proposals shall respect the diversity and character of the area surrounding the application site. The scale of the proposed house in combination with its sunken position within the gardens of 42 Victoria Road ensures that the development appears subservient to the B listed house at 42 Victoria Road and surrounding properties. Through the retention of the existing hedge screening the tennis courts from the remainder of the property at 42 Victoria Road, the proposed development will not be significantly visible from Victoria Road or Strathern Road. Therefore the proposal preserves the prominence and setting of the listed building at 42 Victoria Road and the character of the West Ferry Conservation Area surrounding the application site.
- 7.4 In order to create the proposed access driveway a significant amount of existing trees along the southern boundary of the site will have to be removed. A detailed tree survey and landscaping plan has been submitted as part of this application which indicates that the trees to be felled will be replaced in equal numbers with the trees to be retained protected during construction in accordance with current British Standards. The tree survey adequately

demonstrates that the proposed tree works and replacement landscaping will not adversely impact on the setting of the B listed building at 42 Victoria Road. However, to ensure that no additional trees are felled and no trees are damaged during construction and also that the required replacement landscaping is fully implemented these matters will be controlled by condition.

7.5 To ensure the quality of the proposed development is not diminished the finish of the proposed access, driveway, house and garage, and, the form of the boundary treatments shall be controlled by conditions.

7.6



7.7 **The proposal satisfies the requirements of Policy 7.**

7.8 **Policy 9: Design of New Housing** – requires the design and layout of new housing developments in Dundee to be of a high quality and contribute to creating places that build on and enhance the distinct character and identity of the different parts of the city. The assessment of the proposals under Policy 7 has concluded that these requirements are met. In addition all new housing developments require to conform to the guidance on the Design of New Housing set out in Appendix 3 of the Dundee Local Development Plan.

7.9 Appendix 3 requires new houses in suburban areas of the city to have a gross internal floor area of 100m<sup>2</sup> or 3 bedrooms or more. Three bedroom houses should have no less than 2 in-curtilage parking spaces. In addition new houses on brownfield sites should be afforded an average of 140m<sup>2</sup> of private useable garden ground and a minimum of 18m between facing windows serving habitable rooms of neighbouring houses.

7.10 The proposed house exceeds the minimum requirements of Appendix 3 and has been sensitively positioned to ensure that there is more than 18m between the south facing windows and the proposed houses to be erected to the south of the application site recently approved by planning application ref: 13/00802/FULL.

- 7.11 **The proposal satisfies the criteria of Policy 9.**
- 7.12 **Policy 12: Development In Garden Ground** – is applicable only to proposals involving the subdivision of existing garden ground to accommodate new houses. The development of garden ground for new houses will be supported where the proposal meets the following criteria:
- 1 the proposed new house/s meet/s the requirements for the design of new small scale housing (Policy 9 and Appendix 3); and
  - 2 no new building is proposed in front of the principal elevation of the existing house; and
  - 3 both the curtilage of the existing house and the proposed house maintain the prevailing density of the surrounding area; and
  - 4 that the useable private garden ground of the existing house is maintained to a level in keeping with the scale of the house and that of similar houses in the surrounding area; and
  - 5 that sufficient off street car parking is maintained/provided with the existing house in accordance with its size; and
  - 6 the development will not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking; and
  - 7 the development is consistent with all other policies of the Plan.
- 7.13 The proposals satisfy the requirements of Criteria 1, 3, 4, 5, 6 and 7 of Policy 12. However, the proposed house will be located to the south east of the principal elevation of the B Listed Building at 42 Victoria Road. As the proposed house will be positioned in front of the principal elevation of the original house at 42 Victoria Road the proposals fail to satisfy Criteria 2 of Policy 12.
- 7.14 **The proposals fail to satisfy Policy 12.**
- 7.15 **Policy 29: Low and Zero Carbon Technology** – requires that, for specified developments, carbon emissions will be reduced by defined percentages through the installation and operation of zero-carbon generating technologies. The requirements of Policy 29 can be addressed by condition.
- 7.16 **The proposal satisfies the criteria of Policy 29.**
- 7.17 **Policy 42: Sustainable Urban Drainage** – stipulates that surface water from new development must be treated by a Sustainable Urban Drainage System (SUDS). SUDS should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300 mm below floor level.
- 7.18 The City Engineer is satisfied that surface water from roof and driveway run-off can be treated and dealt with on site.
- 7.19 **The proposal satisfies the criteria of Policy 42.**
- 7.20 **Policy 48: Listed Buildings** – states that the alteration of a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its

architectural or historic character. Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest.

- 7.21 Originally the proposals involved repositioning the B listed entrance gates to a new entrance serving the house at 42 Victoria Road behind the main entrance to the property from Victoria Road. However, revised proposals showing the original entrance gates in situ and the creation of a new entrance feature mirroring the existing through an extension of the stone dwarf wall and railings on top have been submitted.
- 7.22 The retention of the original entrance will maintain the setting of the B listed building at 42 Victoria Road as well as the original appearance of the property relative to the historic Victoria Road streetscene. To ensure that the railings, dwarf wall and new gates to be located behind the main entrance to 42 Victoria Road do not detract from the historic character or setting of the listed walls and building at 42 Victoria Road these matters will be controlled by condition.
- 7.23 **The proposal satisfies the criteria of Policy 48.**
- 7.24 **Policy 50: Development in Conservation Areas** – states that within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features that contribute to the character and appearance of the Conservation Area.
- 7.25 As discussed in the assessment of the proposal against Policy 7 above, the proposed house is of a deliberate scale, massing, design and location so as not to impact on the setting of the listed building, neighbouring properties and the Strathern Road and Victoria Road streetscenes. The proposal does involve the removal of six mature trees which contribute significantly to the character of the West Ferry Conservation Area. However, through planning conditions replacement planting of a variety of species within the gardens of 42 Victoria Road can be achieved that will further enhance the character of the Conservation Area. The retention of the hedge that currently screens the existing tennis courts from the remainder of the property at 42 Victoria Road will also screen the proposed house and private gardens. The roof of the proposed house will be visible above the retained hedge when viewed from Victoria Road. However, the visual impact will be minimal given the distance between Victoria Road and the proposed house, the high quality finish of the proposed house and the wooded gardens serving both the original house and proposed house.
- 7.26 In this instance the proposals will not adversely impact on the character of the West Ferry Conservation Area.
- 7.27 **The proposal satisfies the criteria of Policy 50.**
- 7.28 The proposals are contrary to the Dundee Local Development Plan as the requirements of Criteria (2) of Policy 12 cannot be satisfied given the position of the proposed house in front of the principal elevation of the B listed building at 42 Victoria Road.

**Statutory Duty - Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**

- 7.29 Section 59 of the Act requires the Council to have special regard to the desirability of preserving or enhancing the character or setting of listed buildings.
- 7.30 Section 64 of the Act requires the Council to have special regard to the desirability of preserving or enhancing the character of Conservation Areas.

- 7.31 It has been established in the assessment of the proposal against the requirements of the Local Development Plan that the new house and driveway will have a minimal impact on the character and setting of the Listed Building at 42 Victoria Road as well as the surrounding West Ferry Conservation Area. Therefore, in approving this application the statutory duties outlined above will be discharged.

## **OTHER MATERIAL CONSIDERATIONS**

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

### **A - SITE LEVELS AND LOCATION OF THE PROPOSED HOUSE**

- 7.32 The proposed house will be positioned on the site of the existing "sunken" tennis court which is located in the south eastern corner of the property at 42 Victoria Road. The tennis court was formed at a lower level than the remainder of the property at 42 Victoria Road in 1992 and enclosed by mature shrubbery and trees in addition to the 3m high chain link fence. The existing tennis court given its sunken form and enclosure by mature landscaping is not visible from Victoria Road, Strathern Road or the ground floor south facing windows of the house at 42 Victoria Road. The site sections submitted as part of this application demonstrate that although the proposed house will be located in front of the principal elevation of the house at 42 Victoria Road the proposed house will not be significantly visible given the site levels, low profiled roof design and the mature landscaping enclosing the application site. The proposed development will therefore have a minimal impact on the prominence and outlook from the principal elevation of the house at 42 Victoria Road.

### **B - SUPPORTING INFORMATION**

- 7.33 A detailed Design Statement has been submitted as part of this application. The Design Statement outlines the ways in which the proposed development will not adversely impact on the setting of the B listed building at 42 Victoria Road or the surrounding Victoria Road and Strathern Road streetscapes.

### **C - VIEWS OF OBJECTOR**

- 7.34 One letter of objection has been received from a neighbouring resident concerned about:

- adverse effect on listed building;
- adverse effect on setting of listed building;
- adverse impact on streetscene/Conservation Area;
- inadequate drainage;
- inappropriate development in Conservation Area;
- poor design;
- privacy of neighbouring properties affected; and
- trees/landscape affected.

- 7.35 The concerns of the objector have been addressed in the assessment of the proposal against the requirements of the Local Development Plan. It has been concluded that the proposed development will be adequately drained and will not adversely impact on the

appearance or setting of the B listed building or boundary walls at 42 Victoria Road. In addition it has been concluded that by virtue of scale, massing, design and location the proposed development will not adversely impact on the character of the West Ferry Conservation Area or the level of privacy afforded to neighbouring properties.

7.36 In this instance the concerns of the objector are not supported.

#### **D - VIEWS OF BROUGHTY FERRY COMMUNITY COUNCIL**

7.37 Broughty Ferry Community Council has objected to the proposed development on grounds that:

- the repositioning of the listed gates will adversely impact on the Conservation Area and setting of the B Listed Building at 42 Victoria Road;
- the modern design is inappropriate for inclusion within the Conservation Area;
- the house will be visible from Victoria Road and will therefore impact on the character of the Conservation Area;
- loss of trees;
- the proposal does not respect the prevailing density of development within the Conservation Area; and
- the proposed driveway should be finished in materials matching the existing driveway.

7.38 The concerns of the Community Council have been addressed in the assessment of the proposal against the requirements of the Local Development Plan. It has been concluded that the proposed development by virtue of design, site layout, landscaping, scale and massing will not adversely impact on the B listed building, walls and gates, the Strathern Road and Victoria Road streetscenes or the West Ferry Conservation Area.

7.39 Conditions will be incorporated into a grant of planning permission to ensure that the landscaping of the application site and the finish of the proposed building, driveway and entrance features does not diminish the high quality environment of the application site and surrounding area.

7.40 In this instance the concerns of the Community Council are not supported.

7.41 The material considerations outlined above demonstrate that by virtue of scale, massing, design, landscaping and location the proposed development will not adversely impact on the principal elevation of the B listed building at 42 Victoria Road. The concerns of the objector and community council are not supported in this instance.

7.42 **It is concluded from the foregoing that the material considerations support the approval of planning permission.**

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## **8 CONCLUSION**

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8.1 The proposal fails to satisfy the requirements of the Development Plan. However, there are material considerations that justify approval of planning permission. Therefore, it is recommended that this application is granted subject to conditions.

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## 9 RECOMMENDATION

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

- 1 Prior to the commencement of development, a scheme of landscaping shall be submitted to and approved by the Council, and it shall include indications of all existing trees and hedgerows on this land to be retained, together with measures for their protection in the course of development in accordance with BS5837:2012. Full details of new planting and landscaping shall also be submitted to and approved by the planning authority prior to the commencement of development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.
- 2 Full details of a maintenance plan for the existing and proposed trees shall be submitted to the Council for approval before any development is commenced and if approved the development shall be carried out only in full accordance with such approved details.
- 3 Prior to the commencement of work on site, the developer shall establish a fixed datum point and shall submit to this Planning Authority for written approval a plan indicating the exact location and value of this datum point along with the finished ridge levels of the proposed building relative to the fixed datum. Thereafter, the finished height of the proposed building shall not exceed the ridge levels approved by this condition.
- 4 Prior to the commencement of work on site, details of the proposed boundary enclosure serving the development hereby approved shall be submitted to the Council for written approval. Thereafter, the boundary treatments approved by this condition shall be erected prior to the first occupation of the dwellinghouse.
- 5 Prior to the commencement of work on site, details of the proposed finishing materials including the surfacing of the proposed driveway, railings, dwarf wall, render, windows, doors and roofing materials as well as rainwater goods shall be submitted to the Council for written approval. Thereafter, the proposed development will be finished only in the materials approved by this condition.
- 6 Prior to the commencement of any works on site, a bond to the value of £20,000 shall be arranged in agreement with the City Council for the protection and maintenance of the trees on site, during the period of construction and ending with the completion of the access drive hereby approved. The applicant shall bear the reasonable legal costs incurred by the Council in this regard.

### REASONS

- 1 To ensure that the trees felled are replaced and the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 2 To ensure that the character of the West Ferry Conservation Area is maintained.
- 3 In order to minimise any visual impact of the proposed house on the Victoria Road streetscape and setting of the B listed building at 42 Victoria Road.
- 4 In the interests of privacy and visual amenity.

- 5 In the interests of safeguarding the setting of the B listed building and the character of the West Ferry Conservation Area.
- 6 In the interests of maintaining the significant contribution that the existing trees on site make to the character of the West Ferry Conservation Area and the setting of the B listed building at 42 Victoria Road.