

# Lowering of Existing Boundary Wall and Regrading of Ground

## KEY INFORMATION

**Ward** The Ferry

### Address

Taychreggan House  
4 Ellieslea Road  
Broughty Ferry

### Applicant

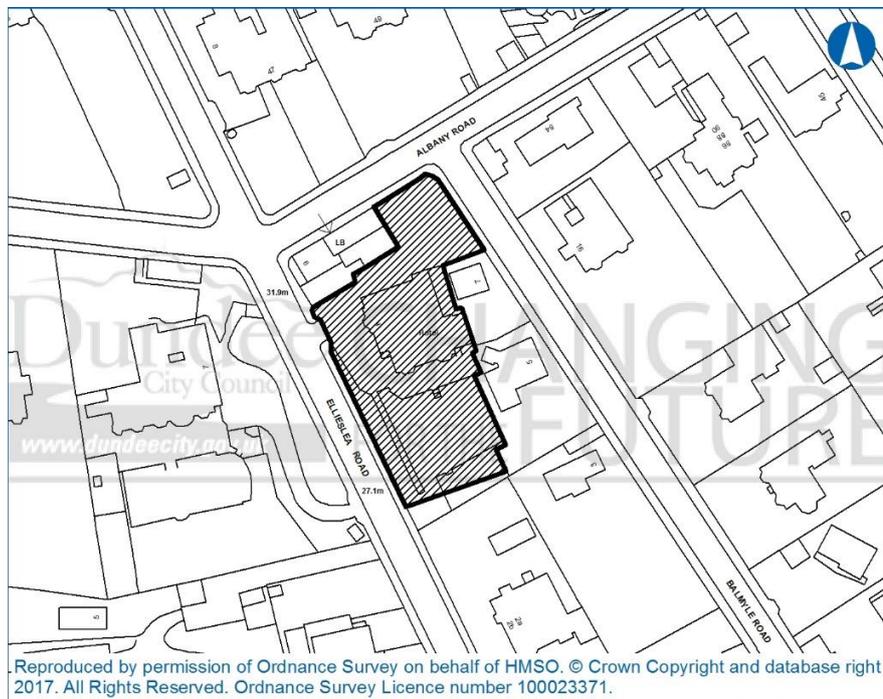
Mr Kenneth Nicoll  
4 Ellieslea Road  
Broughty Ferry  
Dundee DD5 1JG

### Agent

Jon Frullani  
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25 Greenmarket  
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**Registered** 28 June 2017

**Case Officer** S Dorward



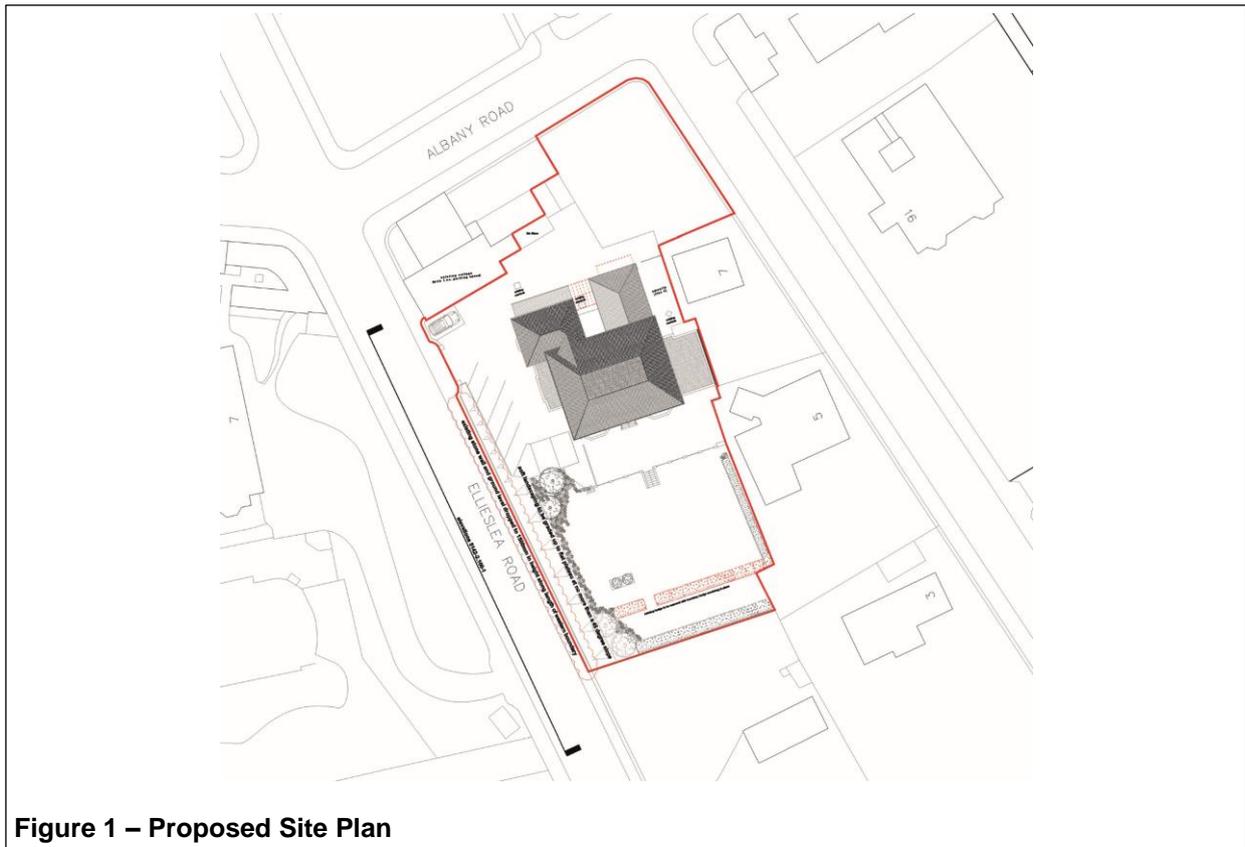
## SUMMARY OF REPORT

- Planning permission is sought to rebuild a stone boundary wall to a lower height than the original wall. The height of the original stone wall was 2.285m and the applicant proposes to rebuild it to a height of 1.5m along a 42.5m length. This is a retrospective application and the works have been completed.
- 6 letters of objection have been received as well as an objection from Broughty Ferry Community Council. The objections raise concerns about the impact on visual amenity, impact on the Conservation Area, loss of privacy, loss of hedging and the fact that the application is retrospective.
- The applicant states that the wall required to be taken down and rebuilt due to significant safety concerns and that it cannot be rebuilt to the original height because of the significant cost of the engineering earthworks that would be required to rebuild a retaining wall of that height to meet the requirements of current building standards.
- The application complies with the relevant provisions of the Development Plan, there are no material considerations that would justify the refusal of planning permission.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee because 6 valid written objections have been received together with an objection from the Community Council.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpaweb/simpleSearchResults.do?action=firstPage>.

## RECOMMENDATION

The proposal complies with the relevant provisions of the Development Plan and with national planning guidance. There are no material considerations of sufficient weight that would warrant refusal of planning permission.

## 1 DESCRIPTION OF PROPOSAL



**Figure 1 – Proposed Site Plan**

- 1.1 The application seeks retrospective planning permission to lower an existing boundary wall and regrade the sloping garden ground behind the boundary wall.
- 1.2 Following the demolition of the original boundary wall as a dangerous structure, planning permission is now sought to reinstate the boundary wall, re-using the original stone, to a height of 1.5 metres, as opposed to the original which was 2.285 metres.

## 2 SITE DESCRIPTION

- 2.1 The application site relates to the former Taychreggan hotel and is located within suburban Broughty Ferry and the West Ferry Conservation Area. The application relates more specifically to the western boundary wall, a former 2.285 metre high rubble stone boundary wall, extending along 42.5 metres of Ellieslea Road adjacent to the footway.



**Figure 2 – Site Photo**

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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 50: Development in Conservation Areas

**SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS**

Scottish Planning Policy (2014)

Historic Environment Scotland Policy Statement (2016)

**NON STATUTORY STATEMENTS OF COUNCIL POLICY**

Breaches In Boundary Walls (2010)

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 15/00729/FULL was approved in December 2015 for the change of use from a hotel to form 6 flatted dwellings.

4.2 Planning application 16/00864/FULL was approved in January 2017 for the erection of a dwellinghouse.

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### 5 PUBLIC PARTICIPATION

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5.1 Six letters of objection have been received, along with a letter from the Community Council, citing the following concerns:

- impact on visual amenity;
- impact on the character of the Conservation Area;
- impact on privacy;
- removal of hedges; and
- the application is retrospective.

5.2 Members will have had access to the letters of objection and the issues raised are considered in the assessment below.

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### 6 CONSULTATIONS

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6.1 **The Head of Community Safety and Protection** – has recommended an advisory note to ensure that care is undertaken during redevelopment and that the Council be notified if any ground contamination is found, as there is potential for ash and/or heating oil being contained within the ground. This is a retrospective application, however, and the works have already

been completed. It would therefore not be prudent to attach such an advisory in these circumstances.

- 6.2 **Broughty Ferry Community Council** – has raised concerns that there was no consultation with the planning authority prior to making the application and seek the wall to be re-instated to its original height in order to maintain the character of the Conservation Area. The Community Council also queries the quality of the works undertaken.

## 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 environment, with reference to climate change adaptation. The design and siting of development should respect the character and amenity of the place and improve connectivity. Proposals should also incorporate new landscape and planting works appropriate to the development. Proposals should also:
- consider and respect site topography and any surrounding landmarks, views or skylines;
  - contribute to a sense of identity by developing a coherent structure of streets, spaces, and buildings that are accessible and respect the existing building lines;
  - the design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours;
  - existing buildings, streets and spaces should create safe accessible inclusive places for people which are easily navigable particularly on foot, bicycle and public transport and designed with future adaptability in mind; and
  - existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.
- 7.3 This is a retrospective application and the works have already been completed. The wall was removed due to it being a dangerous structure and there were significant concerns that it could collapse.
- 7.4 The boundary wall has been re-instated in the same position as the original wall, using the same stone. The wall has been rebuilt to a height of 1.5 metres, rather than the original height of 2.285 metres.
- 7.5 The new wall respects the surrounding topography, does not impact on any surrounding landmarks, views or skylines. The new wall respects the former wall as it follows the same line as the original and is re-built from the same natural stone. As such, the proposed wall is

considered to have been sensitively designed so that it integrates into the existing street character.

- 7.6 The proposal does not have any significant impact on visual amenity, or the character or appearance of the Conservation Area.
- 7.7 **The proposal satisfies Policy 7.**
- 7.8 **Policy 50: Development in Conservation Areas** - expects that all development proposals will preserve or enhance the character of the surrounding area, retaining all features that contribute to the character and appearance of the Conservation Area.
- 7.9 For reasons similar to those assessed in the context of Policy 7 above, the proposal would have a neutral effect on the character or appearance of the Conservation Area. Whilst the original wall has not been retained, it is clear that it had to be taken down for genuine safety reasons. It has been rebuilt re-using the natural stone in a manner that fully respects the surrounding boundary treatments.
- 7.10 **The proposal satisfies Policy 50.**
- 7.11 **It is concluded from the foregoing that the proposal complies with the provisions of the development plan.**

#### **STATUTORY DUTY**

- 7.12 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that with respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. For the reasons set out above, the proposed works would comply with the Development Plan with regard to development affecting a Conservation Area and the statutory duty set out in Section 64 of the Act would be discharged through the approval of planning permission.

#### **OTHER MATERIAL CONSIDERATIONS**

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

##### **A - APPLICANT SUPPORTING INFORMATION**

- 7.13 The applicant has submitted a supporting statement explaining that the original wall had been retaining a significant volume of earth behind it and had begun to lean dangerously towards the street. A Dangerous Building Notice was served by the Council and the wall was taken down.
- 7.14 The applicant explored rebuilding the wall to the original height and employed an engineer to investigate how this could be done. The applicant states that it would not have been feasible due to cost of significant engineering works on the land on both the garden and footpath sides of the wall. Such works would require significant foundations to the wall to ensure that it would be capable of holding the volume of earth behind it. There are also full height trees behind the wall which would be compromised should the ground be excavated.
- 7.15 The supporting information generally supports the approval of the application in accordance with the development plan.

## B - NATIONAL PLANNING POLICY AND GUIDANCE

7.16 Scottish Planning Policy (2014) and Historic Environment Scotland Policy Statement (2016) should be taken into account when determining applications for planning permission for development which may affect the historic environment. Scottish Planning Policy (Valuing the Historic Environment) considers that the designation of a Conservation Area provides the basis for the positive management of an area. A proposed development that would have a neutral effect on the character or appearance of a Conservation Area (ie does no harm) should be treated as one which preserves that character or appearance. The Historic Environment Scotland Policy Statement seeks to identify the key characteristics of the historic environment and establish the boundaries within which change can continue so that it enhances rather than diminishes historic character; the historic environment should be valued as an asset, rather than thought of as a barrier to development. For the reasons already set out, it is concluded that the proposed works would comply with national planning guidance with regard to development affecting a Conservation Area.

## C - VIEWS OF OBJECTORS

7.17 Six letters of objection have been received, as well as an objection from Broughty Ferry Community Council. The objections cite the following concerns:

- impact on visual amenity;
- impact on the character of the Conservation Area;
- impact on privacy;
- removal of hedges; and
- the application is retrospective.

7.18 In response, it is not considered that the replacement retaining wall has any significant impact on visual amenity or the character or appearance of the Conservation Area, for the reasons explained in the development plan assessment above.

7.19 The concerns in relation to privacy because of the lowering of the wall and removal of hedging are not substantiated. There has been no impact on privacy to neighbours by lowering the boundary wall as there is additional screening in place.

7.20 In relation to concerns raised in relation to procedure, the original wall was removed following the issue of a Dangerous Building Notice on the wall structure. It was sought to reinstate the boundary treatment prior to consultation with the planning authority to address any public safety concerns.

7.21 **The concerns of the objectors are not of sufficient weight to justify refusal of the application.**

## D – BREACHES IN BOUNDARY WALLS GUIDANCE

7.22 The Breaches in Boundary Walls Guidance states that the setting back or lowering of a boundary wall to facilitate access, parking or visibility splays will be discouraged as this would destroy the sense of enclosure. The guidance goes on to advise that original walls and gatepiers should be retained and repaired in the original material. If the wall is to be lowered, any copings should be reinstated. Consideration should also be given to how the lowering in height is achieved either by a step or series of steps, or by a slope.

- 7.23 In this case, the lowering of the wall is not required to facilitate access or visibility and would not affect the sense of enclosure. The original coping stone has been re-used and a slope from the original height at the gatepiers has been used to achieve the lowering. The alterations to the boundary wall are therefore acceptable in terms of the Breaches in Boundary Wall Guidance.

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## 8 CONCLUSION

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- 8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is therefore recommended that planning permission be granted.

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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 **Condition** - no conditions attached to this consent.

**Reason** – no reasons attached to this consent.