

# Erection of Summer House, Down Taking of Part of Boundary Wall to Form Parking Space and Installation of Sliding Gate

## KEY INFORMATION

**Ward** The Ferry

**Address**

435B Brook Street  
Broughty Ferry

**Applicant**

Mr A Gilbertson  
435B Brook Street  
Broughty Ferry

**Agent**

KXM Developments Ltd

**Registered** 3 July 2023

**Report by Head of Planning  
& Economic Development**

**Contact:** Laura Stewart



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## SUMMARY OF REPORT

- Planning permission is sought for the erection of a summer house in the rear garden area, the down taking of part of a stone boundary wall to form an off-street parking space and the installation of a sliding vehicle access gate.
- The property is located within the Broughty Ferry Conservation Area.
- The application is fully in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken, and the application advertised in the local press. 19 letters of objection were received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as six or more valid written objections have been received and the recommendation is for approval.
- More details can be found at <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?keyVal=RX876EGCL7300&activeTab=summary>

## RECOMMENDATION

The proposal is fully in accordance with the Development Plan. There are no material considerations of sufficient weight to justify refusal of planning permission. It is therefore recommended that planning permission be **APPROVED** subject to conditions.

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## 1 DESCRIPTION OF PROPOSAL

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- 1.1 Planning permission is sought for the erection of a summer house and down taking of part of a boundary wall to form an off street car parking space within the curtilage of 435B Brook Street. A sliding gate will be installed in place of the wall.
- 1.2 The summer house is to be located in the rear garden of 435B Brook Street. The proposed summer house would have a footprint of 3m x 3.9m and is 2.49m to the ridge in height. It would be constructed of timber. The front elevation which would be south facing toward the applicants' house contains a glazed sliding door.
- 1.3 The wall which is to be altered to accommodate the vehicle access to the car parking space is situated on the western boundary of the site on Cross Street. The traditional stone built boundary wall measures approximately 2m in height. A section of the wall measuring approximately 3.5m in length is proposed to be taken down and replaced with a 1.8m high automatic sliding gate. This would be timber finished in anthracite grey set within a black metal frame. Each side of the wall would be rebuilt to tie in with the existing.
- 1.4 The car parking space would measure 6m x 3.5m and be finished in a porous monobloc surface. An Electric Vehicle (EV) charging point is also to be installed.



Figure 1 – Site Plan and Summer House and Gate Details



## 2 SITE DESCRIPTION

- 2.1 The site is located to the north side of Brook Street in Broughty Ferry and is on the corner of the junction with Cross Street. It is located within Broughty Ferry Conservation Area. The house comprises a traditional semi-detached stone built villa which has been split into two properties (435A and 435B). The applicant's property has a generous curtilage to the rear. The plans denote a strip of garden to the west and a small garage in the ownership of 435A. The front of the property is bound by a low stone wall and hedge, the western boundary is defined by a 2m high stone boundary wall which also defines the rear boundary of the curtilage. The rear gardens are largely screened from public view from the street. There are a number of ancillary buildings and structures within the rear gardens including sheds and garages. Many of the properties have been extended.
- 2.2 This short section of Cross Street is paved in traditional stone setts with unrestricted on-street parking down its eastern side. It is within a 20mph speed limit area. The street continues around the curtilage of the application site to the north and gives access to a private flatted development which utilises a mix of unrestricted on street parking opportunities and private parking courtyards.



Figure 2 – Location of Proposed Sliding Gate

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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:

**NATIONAL PLANNING FRAMEWORK 4**

Policy 1: Tackling The Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 7: Historic Assets and Places

Policy 16: Quality Homes

Policy 22: Flood Risk and Water Management

**DUNDEE LOCAL DEVELOPMENT PLAN 2019**

Policy 1: High Quality Design and Placemaking

Policy 11: Householder Development

Policy 51: Development in Conservation Areas

Householder Development - Advice and Best Practice Supplementary Guidance

**NATIONAL POLICIES**

Historic Environment Policy for Scotland (HEPS)

**NON-STATUTORY STATEMENTS OF COUNCIL POLICY**

Breaches in Boundary Walls Policy Guidance for Dundee's Listed Buildings and Conservation Areas

Broughty Ferry Conservation Area Appraisal

- 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 No recent planning history on site.

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### 5 PUBLIC PARTICIPATION

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- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 19 objections have been received raising the following valid material grounds:
- impact to street scene/conservation area from demolition of stone wall and design of gate;
  - loss of on street parking space;
  - road safety due to illegal parking, due to a blind bend, existing road width, impact to pedestrians; and
  - summer house and gate will affect structural integrity and safety of wall.
- 5.3 Concerns were also raised in relation to property value; existing driver behaviour and historic incidents. It is also commented that in approving the opening it will lead to a garage being

constructed, concern is also raised around responsibility for repairs to the wall. However, these are not valid material planning considerations.

- 5.4 The valid grounds of representation are taken into account in the material considerations section of this report.

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## 6 CONSULTATIONS

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- 6.1 **Head of Sustainable Transportation and Roads** – has no objection to the application – two planning conditions are recommended to secure detail on the access and road markings and to require that the parking space proposed within the property is of porous material to ensure that surface water is dealt with within the curtilage. An informative note is also recommended advising the applicant that a Vehicular Access application will require to be submitted to the Roads Authority.

## 7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended 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.

### NATIONAL PLANNING FRAMEWORK 4

- 7.2 **Policy 1: Tackling The Climate and Nature Crises** - states that all development proposals require to give significant weight to the global climate and nature crises.
- 7.3 **Policy 2: Climate Mitigation and Adaptation** - states that all development proposals require to ensure resilience to climate change impacts.
- 7.4 Due to the scale of development, it is not considered that any significant impact would be had on the climate or nature.
- 7.5 **The proposal is in accordance with Policy 1 and Policy 2 of NPF4.**
- 7.6 **Policy 7: Historic Assets and Places** - relates to development within Conservation Areas. As the site is located within Broughty Ferry Conservation Area, there is potential for the proposal to have an impact on the conservation area. Part d of Policy 7 is of relevance to this proposal, it states that proposals in or affecting Conservation Areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Considerations include the:
- i architectural and historic character of the area;
  - ii existing density, built form and layout; and
  - iii context and siting, quality of design and suitable materials.

- 7.7 Part e states that development proposals in Conservation Areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting including structures, boundary walls, railings, trees and hedges are retained.
- 7.8 The summer house is of a relatively modest scale and is situated within the rear curtilage of the house. The gardens adjacent to the house have a series of outbuildings and modern non-traditional extensions. The summer house will be partially visible, mainly to properties and to the north on Cross Street as the street is elevated above the garden. However, within the context described above, the summer house would not have a detrimental impact on the architectural and historic character of the area, existing density, built form or layout. The proposal is appropriately sited, designed and utilises suitable materials. The summer house element of the proposal therefore complies with policy 7 d and e of NPF4.
- 7.9 The area of hardstanding proposed to accommodate a car parking space will not be highly visible from out with the curtilage of the property and this element of the proposal therefore also complies with Policy 7d and e of NPF4.
- 7.10 The partial down taking of the wall will affect the traditional stone boundary wall which wraps around the property within the conservation area. Policy 7e of NPF4 seeks to ensure that built features including boundary walls which contribute to the character of Conservation Areas are retained. The partial breach of the wall would not strictly comply with this requirement. However, as this comprises a relatively minor section of wall measuring 3.5m in length and it is located adjacent to a small garage which has also previously breached the boundary the alteration is not considered to be significant. Furthermore the majority of the boundary wall would be retained and the affected area of wall is not located within a prominent part of the conservation area. The proposed gate is to be constructed of timber and finished in dark grey, a recessive colour which will reduce the visual impact and screen the garden ground from public view.
- 7.11 Given that the design and materials of the proposed sliding gate are appropriate and the section of wall to be taken down is not extensive, alongside the location of the wall not being within a very prominent, or traditional part of the conservation area, it is not considered that the impact on the conservation area as a whole would be so significant so as to justify refusal of planning permission for this element of the proposal; therefore on balance, the removal of the section of the wall is accepted on this occasion. The proposal therefore preserves the architectural and historic character of the area in compliance with part i) and iii) of policy 7d. Part ii) is not relevant to this proposal.
- 7.12 **The proposal is in accordance with Policy 7 of NPF4.**
- 7.13 **Policy 16: Quality Homes** - part g is relevant to householder development stating that householder developments will be supported where they:
- i do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and
  - ii do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.
- 7.14 The proposed summer house is of a relatively modest scale and design and is located at the end of the garden, away from the house. It would not have a detrimental impact on the home and surrounding area. The scale and design of the proposed gate is also not considered to result in any significant change which would have a detrimental impact upon the character or environmental quality of the home and surrounding area.

- 7.15 The summer house and gate will not have a detrimental impact on neighbouring properties in terms of physical impact, overshadowing or overlooking due to the siting and modest scale of both parts of the proposal.
- 7.16 **The proposal is in accordance with Policy 16 of NPF4.**
- 7.17 **Policy 22: Flood Risk and Water Management** - Part c of Policy 22 states that development proposals will:
- i not increase the risk of surface water flooding to others, or itself be at risk.
  - ii manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; and
  - iii seek to minimise the area of impermeable surface.
- 7.18 A condition is recommended by the Roads Authority to ensure that the parking area is surfaced in a porous material. Porous monoblock is denoted on the plans recommended for approval. Due to the modest scale of the summer house, it is not likely to generate a significant amount of surface water over and above the existing situation within the garden which is laid to grass.
- 7.19 **The proposal is in accordance with Policy 22 of NPF4 subject to condition.**
- 7.20 **The proposal is in accordance with the relevant policies of National Planning Framework 4.**

#### **DUNDEE LOCAL DEVELOPMENT PLAN 2019**

- 7.21 **Policy 1: High Quality Design and Placemaking** - requires all development to contribute positively to the quality of the surrounding built and natural environment and states that the design and siting of development should respect the character and amenity of the place. As considered under policy 16g of NPF4 above the proposed summer house is of a relatively modest scale and design and is located at the end of the garden, away from the house. It would not have a detrimental impact on the home and surrounding area. The scale and design of the proposed gate is also not considered to result in any significant change which would have a detrimental impact upon the character or environmental quality of the home and surrounding area.
- 7.22 **The proposal is in accordance with Policy 1 of the Dundee LDP.**
- 7.23 **Policy 11: Householder Development** - sets out 4 criteria to be considered in assessing proposals such as this. Householder development will be supported where it:
- 1 does not have a detrimental impact on the character or environmental quality of the house and the surrounding area by virtue of size, design and materials;
  - 2 does not result in a significant loss of private/useable garden ground;
  - 3 does not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking; and
  - 4 does not have a detrimental impact on the existing level of parking provision.



- 7.24 Criteria 1 and 3 have been considered under the provisions of Policy 16g of NPF4 above and found to be acceptable. With regard to criterion 2, the property is set within a relatively large plot and ample garden ground will be retained and as such the proposal complies with Criterion 2. Regarding Criterion 4, there is currently no parking within the curtilage of the property. The proposal would allow for the creation of one off-street car parking space. It is acknowledged, as highlighted in representations that one on-street space will be removed. However, as the applicant will already be utilising an on-street space, and the proposal would create an off-street space in replacement, there will be no net loss of parking spaces available should the application be approved. The Head of Sustainable Transport and Roads has no objection to the removal of an on-street space. The proposal therefore complies with Criterion 4. There would be no significantly detrimental impact to parking provision over and above the current situation on site which would warrant refusal of planning permission.
- 7.25 **The proposal is in accordance with Policy 11 of Dundee LDP.**
- 7.26 **Policy 51: 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.
- 7.27 As considered under the provisions of Policy 7 – Historic assets and places of NPF4 above the summer house is of a relatively modest scale and is situated within the rear curtilage of the house. The gardens adjacent to the house have a series of outbuildings and modern non-traditional extensions. The summer house will be partially visible, mainly to properties and from the north of Cross Street as this is elevated above the garden, however within the context described above the summer house would not have a significantly detrimental impact on the character of the area.
- 7.28 The partial down taking of the wall will affect the traditional stone boundary wall which wraps around the property within the conservation area. In line with Policy 7e of NPF4, policy 51 of the Dundee LDP requires retention of all features that contribute to the character and appearance of the conservation area. As the proposed breach comprises a relatively small section of wall measuring 3.5m in width, located adjacent to a shed which has also previously breached the boundary the breach to the wall is not considered to be significant with the majority of the boundary being retained, and it is not located within a prominent part of the conservation area. The proposed gate is to be constructed of timber and finished in dark grey, a recessive colour which will reduce the visual impact.
- 7.29 Given the design and materials of the proposed sliding gate are appropriate and the section of wall to be taken down is not extensive, alongside the location of the wall not being within a very prominent, or traditional part of the conservation area, it is not considered that the impact on the Conservation Area as a whole would be significant therefore on balance, the removal of the section of wall is accepted on this occasion as the impact are not significant to justify refusal of planning permission for this element of the proposal.
- 7.30 **The proposal is in accordance with Policy 51 of Dundee LDP.**
- 7.31 It is concluded that the proposal is in accordance with the Development Plan.

## **STATUTORY DUTIES**

### **Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 as amended**

- 7.32 Section 64(1) of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 as amended states that with respect to any buildings or land in a conservation area, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. As assessed in detail above the scale, design and location of the summer house, parking space and new sliding gate within the boundary wall preserve the character of Broughty Ferry conservation area and do not have a significantly detrimental impact upon it. In approving planning permission the Council would therefore fulfil its statutory duty in this regard.

## MATERIAL CONSIDERATIONS

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

### A - OTHER RELEVANT STATUTORY OR NON-STATUTORY STATEMENTS OF POLICY

7.34 **Historic Environment Policy for Scotland (HEPS)** - sets out a series of principles and policies for the recognition, care and sustainable management of the historic environment. It recognises that changes to the historic environment are inevitable and is a non-statutory guidance tool to assist in aiding decision making. The proposed development is not considered to be at odds with HEPS.

7.35 **Dundee City Council Breaches in Boundary Walls Guidance** - notes that depending on the location of a proposed opening, the quality of the wall and the design of the alteration that openings to provide access may be possible. It is stated that applications will not be recommended for approval where the wall is considered to contribute to the character of a listed building or conservation where the alteration would detract from this character. As assessed under the provisions of Policy 7 of NPF4 and Policy 51 of Dundee LDP it is not considered that the breach to the wall would detract from the character of the conservation area and that the scale and design of the gate is appropriate.

7.36 Broughty Ferry Conservation Area Appraisal recognises the importance of boundary walls as part of the character of the conservation area – as stated above the planning appraisal considers that the breach to the wall, provision of a car parking space and erection of a summer house are not at odds with the adopted policies of the Development Plan.

### B – REPRESENTATIONS

7.37 19 objections have been received raising the following valid material grounds.

- impact to street scene/conservation area from demolition of stone wall and design of gate;
- loss of on street parking space;
- road safety due to illegal parking, due to a blind bend, existing road width, impact to pedestrians; and
- summer house and gate will affect structural integrity and safety of wall.

7.38 The grounds of objection are considered and assessed as follows:

7.39 **Objection** - impact to street scene/conservation area from demolition of stone wall and design of gate.

7.40 **Response** - this has been assessed in detail above. The partial breach of the stone wall is not considered to have a significantly detrimental impact upon the streetscape or Conservation

Area. The design of the gate is of an appropriate material (timber) finished in a recessive colour (dark grey) to minimise visual impacts. It is not considered the impact arising from its installation is significant to warrant refusal of planning permission.

7.41 **Objection** - loss of on street parking space

7.42 **Response** - there are no parking restrictions on the street and no person has any right to an on street car parking space. One on-street space will be removed, however as the applicant will already be utilising an on-street space, and the proposal would create an off-street space in replacement, there will be no net loss of parking spaces available, therefore there will be no significantly detrimental impact upon parking provision should the application be approved. The Head of Sustainable Transport and Roads has no objection to the removal of an on-street space. The planning application cannot be refused on this basis.

7.43 **Objection** - road safety due to illegal parking, due to a blind bend, existing road width, impact to pedestrians

7.44 **Response** - it is up to individuals to park responsibly and this is not something which can be enforced through this planning application. The street is restricted to 20mph, is paved in stone setts and there is a footway along the entire eastern side of the road. The movement of one car across the footway and into the road on a daily basis is not considered to give rise to a road safety issue to all users to an extent that would warrant refusal of planning permission. The Head of Sustainable Transport and Roads has not highlighted the potential for any road safety issues arising from provision the access onto the street and did not object in this regard.

7.45 **Objection** - summerhouse and gate will affect structural integrity and safety of wall.

7.46 **Response** - the summer house is located 1m away from the boundary wall on each side and is to be set upon an existing slabbed area. The structural integrity of the wall is therefore unlikely to be impacted by the summer house. Works to breach the wall and maintaining safety whilst undertaking these works would be the responsibility of the developer and is not relevant to the assessment of the planning application.

7.47 The issues raised in the representation(s) have been considered and addressed in the report and the grounds raised are not of sufficient weight to justify refusal of planning permission.

7.48 **It is concluded that there are no material considerations of sufficient weight in this case to justify refusal of planning permission.**

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## 8 CONCLUSION

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8.1 The application for the erection of a summer house, down taking of part of a boundary wall to form a car parking space and installation of a sliding gate is in accordance with the Development Plan. There are no material considerations of sufficient weight that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

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## 9 RECOMMENDATION

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9.1 It is recommended that planning permission be GRANTED subject to the following conditions):

- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

**Reason** - to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 **Condition** - prior to any works on site details of the proposed site access including proposed road markings must be agreed and the access must be formed and constructed to Dundee City Council standards and specifications.

**Reason** - in the interests of vehicle and pedestrian safety.

- 3 **Condition** - the hard surface within the curtilage should be made of porous materials or provision should be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

**Reason** - to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

### Informative

A Vehicular Access (VA) application (found via the following link on DCC website: <http://www.dundee.gov.uk/citydevelopment/vehicularaccess>) must be submitted to Dundee City Council as Roads Authority for work on the adjacent public road or footway and consent for this must be obtained prior to the commencement of any work on the public road or footway. For further details please contact 01382 433341 or [developmentroads@dundee.gov.uk](mailto:developmentroads@dundee.gov.uk).