

KEY INFORMATION

Ward West Ferry

Proposal

Erection of new dwelling house with double garage and erection of double garage for existing house

Address

47 Albert Road
Brought Ferry
Dundee
DD5 1AY

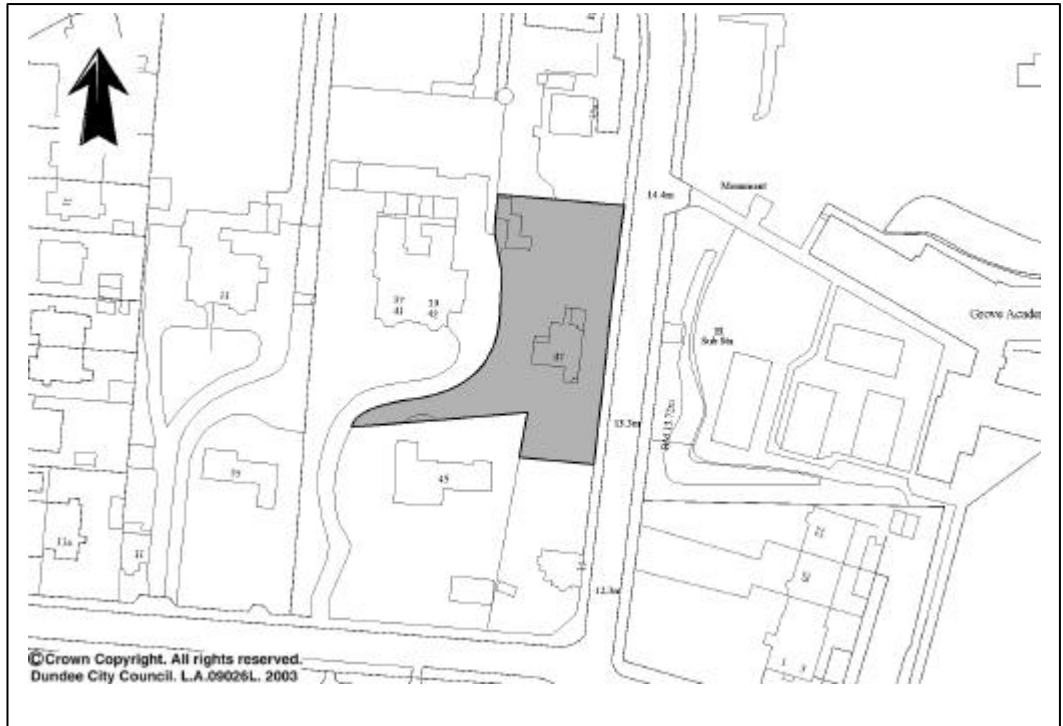
Applicant

Mr & Mrs D French
"Sylvan"
47 Albert Road
Broughty Ferry
Dundee
DD5 1AY

Agent

Registered 3 March 2005

Case Officer C Walker



New House Proposed Affects setting of Listed Building

The erection of new dwelling house with double garage and erection of double garage for existing house is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is contrary to the policies of the development plan and will detract from the setting of the listed building at "Taymount".

The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a three-storey house in the garden ground of 47 Albert Road, Broughty Ferry, Dundee.
- The proposal raises issues for consideration in terms of the Built Environment and Natural Environment Policies of the Dundee Local Plan 1998, Policies 4, 15 and 72 of the Finalised Dundee Local Plan Review and Section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997.
- 3 letters of objection have been received from occupiers of flats in "Taymount". Broughty Ferry Community Council also objected to the proposed development. The main concerns related to the proposal contravening Policy BE4 of the adopted Local Plan, the removal of the trees, the loss of an important wildlife habitat, the impact on the existing driveway from increased traffic and the adverse affect on the landscaped setting of the Category B listed "Taymount".
- The Council's Forestry Officer has considered the proposed development and recommends that planning permission should not be granted for the proposed house, as it would be detrimental to the arboreal amenity of the area.
- The application is considered to be contrary to the Built Environment and Natural Environment policies of the Dundee Local Plan 1998, Policies 4, 15 and 72 of the Finalised Dundee Local Plan Review and Section 59 of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997. Furthermore it is considered that the concerns raised by objectors are sufficient to warrant refusal of the application.

DESCRIPTION OF PROPOSAL

Planning permission is sought to erect a three storey house in the garden ground of 47 Albert Road, Broughty Ferry, Dundee.

The proposed house is 3 storeys in height and entered at first floor level. The living accommodation is at this level and there are 4 bedrooms, 2 on each of the ground and second floor levels. Because the site is steeply sloping, the house is built into the slope with the pedestrian access by means of a ramp from higher ground to the west. It is proposed to site the house towards the east of the site some 3.75 metres from the high stone retaining wall at Claypotts Road

The proposed finishing materials are walls of facing brick at ground floor level and smooth render to the upper levels with a roof of slate. The design of the proposed house is modern in character and rectangular in form with the entrance on the west elevation projecting in the form of a tower feature.

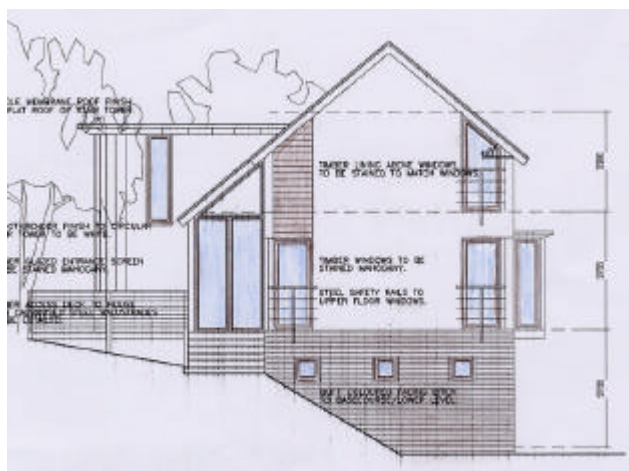
It is proposed to erect a double garage for the proposed house on the site of an existing timber garage to the west of the proposed house which, is to be demolished. The finishes for this garage will match the proposed house.

Finally it is proposed to erect a new garage to serve the existing house (its present garage is to be demolished to build a garage for the new house). It is proposed to site this garage to the south west of the existing house taking access by means of a raised deck from the driveway to the main house. Due to steeply sloping ground levels the proposed garage will appear as a 2 storey structure from the south and west. It is proposed to finish this garage in facing brick and slate.

The applicants have submitted a letter in support of their proposal. This refers to the 2 previous decisions to refuse this development and the action taken to address the reasons for refusal. They state that they have carried out a programme of management of the trees on the site in conjunction with the Council's Forestry Officer involving some felling and new planting and that they have carried out works to the garden areas to make them more useable. They suggest that the proposed development

complies with the development plan policies on new housing development, garden ground development and the protection of trees and that they have enhanced the setting of the listed building by removing some trees and making it more visible from Claypotts Road.

A tree survey and report has been submitted. It notes that there are 8 trees on the site of the proposed new house, 4 of which need to be removed to accommodate the development and 1 of which should probably be removed but if it is to be retained then the house will need to be repositioned and the tree pruned. A relocation of the house could also assist in the better protection of other trees to be retained



and the relocation of the garage could save a tree from being felled. It suggests that new planting should be carried out in accordance with the previously prepared management scheme. Some conifers would also need to be felled to accommodate if the driveway serving the new garage for the existing house is formed in accordance with the submitted plans.

SITE DESCRIPTION

The site comprises 47 Albert Road and its garden ground. These grounds extend to some 1,700 sq. metres in total, the application site for the new house comprising some 560 sq. metres of this figure. The grounds slope steeply downwards from west to east. The difference in level from the driveway adjacent to the main house and the eastern site boundary at Claypotts Road is some 7 metres. The site is extensively covered by trees although a number of them have been felled in the past. Most of the

remaining trees are protected by a TPO which was approved in May 2002.

The site for the proposed new house sits well above Claypotts Road and below the entrance driveway to "Taymount", the original stone built villa to the west of the site. To the north is a modern one and a half storey house and the site boundary is formed by a timber fence. The site for the proposed garage for the new house is at the driveway level of "Taymount" and is currently occupied by a timber garage. The site for the proposed garage for the existing house is directly off the entrance driveway to "Taymount". Driveway trees and shrubs have recently been removed at this location with the consent of the Council.

47 Albert Road is a modern house finished in brick and a low pitched tiled roof (it was originally flat roofed). It is situated within the former garden ground of "Taymount". This stone villa, at 37-43 Albert Road, is a Category B listed building, which was built in 1862. It has been subdivided into 4 flats. Its former gate lodge sits at the junction of Claypotts Road and Albert Road. Its former coach house (now a house) is to the rear and accessed separately

from Claypotts Road. Within its former extensive grounds (some 1.26 ha) a total of 4 new houses have been built, and the application premises and 1 other of these shares the original entrance drive to "Taymount".

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 1998

The following policies are of relevance:

Housing Policy H10 is of relevance and sets out the guidelines for the design and layout of new housing.

Built Environment Policy BE4 Development in Garden Ground: this policy sets out the criteria for the consideration of proposals within grounds of existing houses and seeks

to resist overdevelopment of these areas within the City.

Natural Environment Policy ENV12 states that development proposals must have regard for existing healthy mature trees, the survival and retention of which should be accommodated throughout the construction period and in the proposed layout of buildings.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application

Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 4 Design of New Housing is of relevance and sets out the guidelines for the design and layout of new housing.

Policy 15 Development in Garden Ground: this policy sets out the criteria for the consideration of developments in garden ground and highlights that the scope for acceptable new development in garden ground is limited.

Policy 72: Trees and Urban Woodland states that new developments must have regard to existing healthy mature trees, the survival and retention of which will be strongly encouraged through sensitive layouts and both during and after construction.

Scottish Planning Policies, Planning Advice Notes and Circulars

Section 59 of the Planning (Listed Building and Conservation Areas)(Scotland) Act 1997 advises that planning authorities shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.

Non Statutory Statements of Council Policy

There are no non-statutory Council policies relevant to the determination of this application

LOCAL AGENDA 21

Local Agenda Key Theme 15 is of relevance to the consideration of the application and seeks to ensure that diversity and local distinctiveness are valued and protected. It is considered that given the siting of the proposed house and the impact on trees and the setting of the listed building that the aims of Key Theme 15 are not achieved.

SITE HISTORY

Planning Application 03/00354/FUL: Erection of house at 47 Albert Road, Broughty Ferry, Dundee. Application was refused on 1 July 2003.

Planning Application 04/00102/FUL: Erection of house at 47 Albert Road, Broughty Ferry, Dundee. Application was refused on 30 March 2004.

In both cases the reasons for refusal related to contravention of policies in the adopted and finalised Local Plans relating to new housing, garden ground development and impact on trees as well as the impact on the setting of the listed building (Taymount).

PUBLIC PARTICIPATION

The applicant carried out the statutory notification of neighbours and the proposal was advertised in the "Dundee Courier and Advertiser" on the 15 March 2005 as affecting the setting of the listed building ("Taymount") and on the 21 March 2005 as a potential departure to the development plan.

3 letters of objection were received from occupiers of flats in "Taymount".

The main grounds of objection were:

- a The proposal contravenes Policy BE4 (Garden Ground development) of the adopted Local Plan due to over development of the grounds and the loss of trees.
- b The removal of the trees will deprive the area of an important wildlife habitat.
- c The existing driveway is narrow with no passing places and can barely cope with the current traffic generated by the 4 flats and 2 houses using it. The additional traffic from the

proposed house will result in an unacceptable traffic situation.

- d The proposed development will detrimentally affect the landscaped setting of the Category B listed "Taymount" to an unacceptable extent.
- e Recent tree and shrub removal has adversely affected the setting of the listed building and the exercise has been designed to prepare the site for development.

Copies of the letters of objection are available in the Members lounges and the points raised will be considered in the Observations Section of this Report.

CONSULTATIONS

The Council's Forestry Officer has considered the proposed development and notes that 4 trees need to be felled to accommodate the house, 3 of which are protected by the TPO. A further tree is unlikely to survive the proposed development and the erection of protective fencing could not comply with BS5837:1991. He also considers that the retained trees would become an area of conflict with the occupiers of the proposed new house due to requests for pruning or felling because of lack of daylight and leaf litter. He recommends that planning permission should not be granted for the proposed house as it would be detrimental to the arboreal amenity of the area.

Broughty Ferry Community Council raised objections to the proposal on the grounds that it was overdevelopment of garden ground, it would destroy a number of protected trees and adversely affect the setting of a listed building.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations.

In addition Section 59(1) of the Planning (Listed Buildings and

Conservation Areas) (Scotland) Act 1997 requires the Council to pay special regard to the desirability of preserving the setting of the Category B listed building "Taymount".

The current application is a re-submission of proposals already considered and refused by the Development Quality Committee at its meetings on the 30 June 2003 and 30 March 2004. The applicant has made no changes to the design and layout of the house or garages. The only changes are that trees and shrubs were removed with the consent of the Council and new planting has taken place and the garden area of the existing house has been regraded to make it more useable.

The Development Plan

The provisions of the development plan relevant to the determination of this application are Policies H10, BE4 and ENV12 specified in the Policy background section above.

Policy H10 sets out guidelines for new housing development. The site falls within the suburban area as defined under this policy. A private useable garden area is required for houses in this area. The existing garden area attached to 47 Albert Road is extensive but much of its usability is restricted by the steep contours and the presence of a large number of trees and shrubs. It is considered that the areas of the site subject to such steep contours and heavily overshadowed by trees do not contribute to the areas of useable garden ground.

Most of the level garden ground attached to 47 Albert Road is to the north of that house where it is proposed to erect the new house. However with the recent felling and thinning of trees and the regrading of ground to the south of the house, further areas of useable garden ground have been provided and it is considered that if the proposed development were approved the existing house would retain sufficient useable garden ground.

The proposed new house would occupy the principal area of level ground at that part of the site and would be left with many incidental areas of sloping garden ground. However it will still have sufficient ground to meet the minimum requirement of 120 sq. metres of

useable garden ground required by Policy H10.

Policy BE4 of the Dundee Local Plan 1998 seeks to ensure that certain areas throughout the City whose unique character is provided by villas set in large garden grounds with mature planting is maintained. Pressure from development has threatened to remove the character of these areas through over-development and the loss of trees. In order to protect the architectural appearance and landscaped features of such areas Policy BE4 sets out a range of criteria in which to consider applications.

Policy BE4(B) states that the total footprint of new buildings proposed should not exceed one and a half times the footprint of the original main house. This figure has just been exceeded by the erection of 4 new houses and their garages within the original garden area. The policy states that in these circumstances further development can be permitted provided the character and appearance as now exists is not detrimentally affected. In this case it is considered that the proposed new house and 2 garages will have a detrimental affect on the setting of the listed building and the landscaped character of the area and this point will be developed further.

Policy BE4(I) states that the need to retain existing trees and landscape features may override other criteria. In this case the trees and shrubs on the site are of considerable amenity value and 19 of them are protected by a TPO. The proposed development involves the felling of 4 of the 8 trees on this site and it is likely that a fifth would also need to be felled. 4 of these 5 trees are significant trees protected by the TPO. Further trees would be affected by the formation of a new driveway to serve the proposed garage for the existing house although these trees are of a lesser amenity value and are not protected by the TPO. In addition the applicant has indicated a willingness to reroute this driveway to avoid the felling of further trees at this location.

Natural Environment Policy ENV12 seeks to protect existing healthy mature trees, the survival and retention of which should be accommodated in the proposed layout of buildings. As has been previously discussed in connection with Policy BE4(I) the

proposed development will lead to an unacceptable loss of healthy mature trees of amenity value and potential damage to 1 more tree.

It is concluded from the foregoing that the proposal does not comply with Policy BE4(B) and (I) and Policy ENV12 of the development plan.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires special regard to be had to the desirability of preserving the setting of listed buildings.

In this case it is considered that the proposed development will have an adverse impact on the setting of the listed building. Although a considerable amount of development has taken place within the grounds of the listed building, the driveway with its border of trees and shrubs remains substantially intact and the house at 47 Albert Road sits at a much lower level with only pedestrian access taken from the driveway adjacent to the listed building (the vehicular access and garage are behind the listed building). The proposed garage for the existing house is a large modern structure and it would have a significant impact on the composition of the driveway and the approach to the listed building.

The erection of the proposed new house and its garage will result in the loss of mature trees and potentially serious damage to trees intended for retention. It is considered that the loss of these trees will have an adverse impact on the setting of the listed building. Finally the erection of a 3 storey house at the location proposed will affect views from Claypotts Road towards the east elevation of "Taymount", which will detract from the setting of the listed building.

Other Material Considerations

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

- a The Finalised Dundee Local Plan Review 2003.

Policy 4 on the Design of New Housing is broadly similar to Policy H10 of the adopted Local Plan. However as well as setting minimum garden sizes it states that if "the proposal is within an established low density residential area, in which case the density of the new development should reflect this and more generous external space standards will be

required". It is considered that the site is within a low density residential area and that the erection of a new house on a plot of some 560 sq. metres would not be consistent with the prevailing density in the area and would therefore contravene Policy 4 of the Finalised Dundee Local Plan Review.

Policy 15 of the Finalised Plan Review is concerned with garden ground development and is similar to Policy BE4 of the adopted Plan. For the same reasons the proposed development is considered to contravene subsections (b) footprint of new development and (h) impact on trees of this policy as well as subsection (d) which requires prevailing densities in the area to be respected.

Policy 72 of the Finalised Plan is concerned with the protection of existing healthy mature trees and is similar to Policy ENV12 of the adopted Local Plan. For the same reasons the proposed development is considered to contravene Policy 72 of the Finalised Plan.

b Letters of Objection.

The concerns of the objectors relating to contravention of Policy BE4 have already been addressed.

The letters of objection also refer to the impact on wildlife, stating that the site is home to grey and red squirrels, and a variety of birds including owls and bats. No evidence has been put forward of the site being an important wildlife habitat and it is not specially designated in the Urban Nature Conservation Subject Local Plan. The objectors concerns about the loss of trees are accepted but it is not considered that there are grounds for refusing the proposed development based on Policy ENV1.

The letters of objection are concerned about the narrowness of the driveway and the parking situation on Albert Road. It is considered that the proposed development makes adequate provision for parking within the site. It is accepted that the driveway is narrow, but it is considered that the increased use of the drive by 7 instead of 6 dwellings will not be so detrimental to amenity and traffic safety as to justify a refusal of permission.

Finally, the letters of objection state concerns about the impact of the

proposed development on the setting of the listed building. This matter has already been addressed and the concerns of the objectors in this regard are considered to be valid.

Broughty Ferry Community Council also raised objections to the proposed development. The concerns are similar to those raised by other objectors and are addressed above.

c The letter in support of the application

This letter makes reference to the changes since the previous refusal of planning permission including the felling of trees, new planting and the regrading of garden ground. They correctly conclude that these changes overcome 1 of the difficulties of the previous proposal, namely the lack of useable garden ground under Policy H10 of the adopted Local Plan and Policy 4 of the Finalised Plan.

However the other concerns about the proposed development still remain. The letter in support incorrectly concludes that the proposal will not adversely impact on the setting of Taymount. In fact the proposed house will stand directly in the line of the principal public views of the listed building from Claypotts Road. A drawing has been submitted showing a view of the site from a single point on Claypotts Road in order to suggest that views will not be affected but this obscures the fact that Taymount is clearly visible for a considerable length along Claypotts Road and the proposed 3 storey house will have a significant impact on these views.

The letter states that the removal of trees on the site has resulted in Taymount becoming more visible from adjoining streets. This is true but it does not provide a justification for detracting from the setting of the listed building by erecting the proposed new house and 2 sets of garages.

The letter suggests that the tree report they submitted supports the proposed development. It is considered that this report simply points out the consequences of erecting the proposed house which is the unacceptable felling of a number of health mature trees which are visible to the public. Furthermore the report suggests a resiting of the house which has not been taken on board, suggesting that the tree report has been carried out to fit the proposed development rather

than to inform how the trees on the site might best be protected.

Finally the letter suggests that the applicants are willing to amend their plans if this is required. However there are fundamental concerns about the proposed development that would not be overcome by a simple repositioning of the proposed house.

It is concluded from the foregoing that the material considerations all weigh against the grant of planning permission other than the applicants letter of support which is of insufficient weight to overcome the policies of the development plan and the statutory duty in Section 59 of the Planning (Listed Buildings and Conservation Areas) Act. It is therefore recommended that planning permission be refused.

Design

Whilst there are concerns about the impact of the proposed house on the setting of the listed building and the trees on the site, the actual design of the house is interesting. The proposed building has the appearance of a garden house although its detailed design and choice of finishing materials could be improved upon. These matters were not pursued due to overriding concerns about the acceptability of a house at this location. In contrast to this the design of the proposed garages is poor, their dominance is exacerbated by falling ground levels and the impact on the listed building is detrimental.

CONCLUSION

The proposed development is considered to be contrary to the Built Environment and Natural Environment Policies of the Dundee Local 1998 and Policies 4, 15 and 72 of the Finalised Dundee Local Plan Review. In addition, it is considered that it would have an adverse impact on the setting of "Taymount"(a category B listed building) contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reason(s):-

Reasons

- 1 The proposed development contravenes Policy BE4(B) and BE4(I) of the adopted Local Plan by reason of overdevelopment of the original garden ground of "Taymount" and the adverse impact on trees and ENV12 of the adopted Local Plan by reason of the loss of trees which are protected by a TPO. It is considered that there are no material considerations which would justify the approval of the proposed development contrary to the provisions of the adopted Local Plan.
- 2 The proposed development would have an adverse impact on the setting of "Taymount"(a category B listed building) contrary to Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 by reason of the siting of the proposed new house and the garage for the existing house and the loss of trees within the former garden of the listed building.
- 3 The proposed development contravenes Policy 4 of the Finalised Local Plan Review because it would depart from the prevailing low density of development in the area, Policy 15 (b), (d) and (h) of the Finalised Local Plan Review by reason of overdevelopment of the original garden ground of "Taymount", increasing the prevailing density in the area and the adverse impact on trees and Policy 72 of the Finalised Local Plan Review by reason of the loss of trees which are protected by a TPO.