

KEY INFORMATION

Ward Balgillo

Proposal
Erection of 27 houses

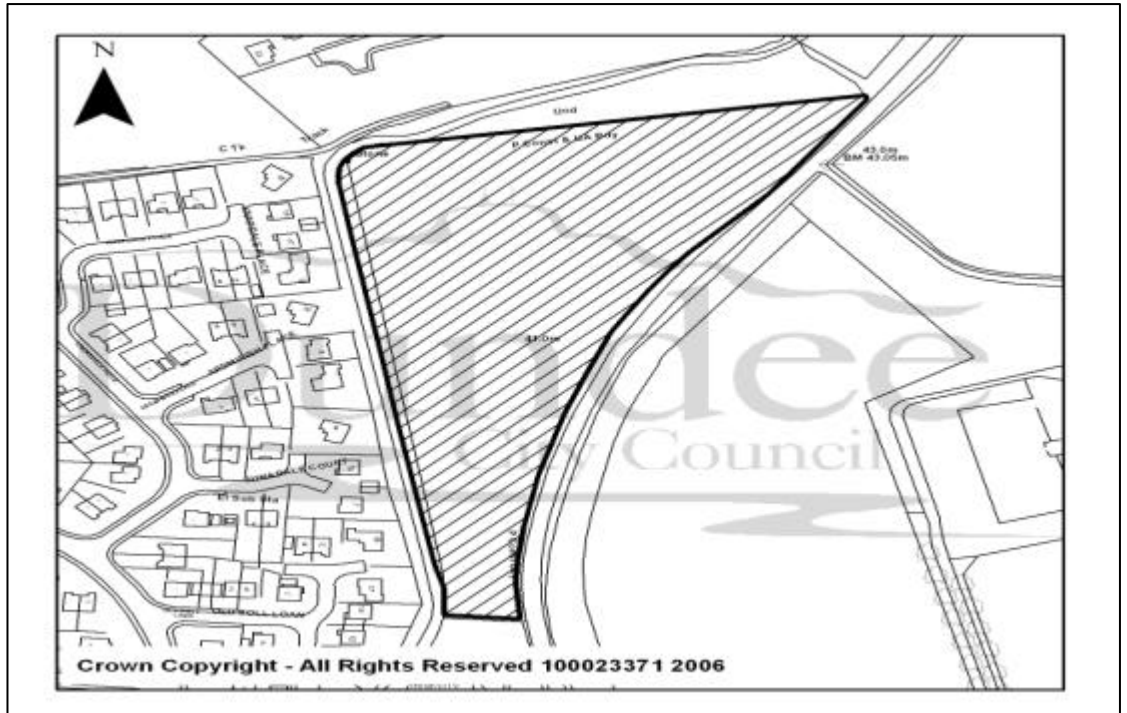
Address
Land North of Mid Kerro
Kellas Road
Dundee

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Registered 17 May 2006

Case Officer C Walker



Proposal for New Housing Development in Kellas Road

The erection of 27 houses is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development represents an acceptable minor breach of the housing allocation in the Development Plan. The proposal is recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought to construct 27 detached houses on the site, 20 of which fall within Dundee Council area, 6 within Angus Council area and 1 which straddles the boundary. A separate application has been made to Angus Council for their portion of the site. It is proposed to maintain the western portion of the site, which falls within the flood plain of the Fithie burn, as public open space. It is also proposed to construct a lit footway between the site and Baldovie Toll.
- Development Plan policies relating to housing allocation, open countryside, transport, flooding and nature conservation are relevant.
- A letter of objection was received from residents of a house to the west of the site concerned about policy matters, nature conservation, traffic and pedestrian safety, design and density of development.
- The proposal does not comply with Policies 2 and 74 of the Local Plan but there are material considerations justifying the approval of the development including its small scale, strong boundaries, attractive design and landscaping and compliance with Local Plan housing standards.

DESCRIPTION OF PROPOSAL

Planning permission is sought to construct 27 houses on the site taking access from a new cul de sac road running parallel to the Kellas Road. As the northern part of the site falls within Angus Council area, 6 of these houses are within Angus Council area and a seventh straddles the boundary. A separate application has been made to Angus Council for their portion of the site.

It is proposed to maintain the western portion of the site (some 30% of the total area), which falls within the flood plain of the Fithie burn, as public open space. A smaller area of public open space is proposed along the eastern site boundary on Kellas Road to screen the development.

All the proposed dwellings are detached 2 storey units with integral garages. Almost all have 4 bedrooms but a small portion have 3. Garden areas average just in excess of 150 sq. metres and none are less than 120 sq. metres.

Proposed finishing materials are walls of wet dash harl and slated roofs. No boundary enclosures are proposed to the front of houses. Side gardens facing onto the new cul de sac road are finished in artificial stone and rear gardens are enclosed by fences but in all cases screening in the form of landscaping is proposed on rear boundaries.

It is proposed to drain the site using a sustainable drainage system, and a landscaped attenuation basin is proposed to the south of the houses. The Tree Survey Report notes that the most important trees are along the banks of the Fithie. Works to these trees are required including felling of some dead and dying trees, but there is no threat to them from the proposed development. The landscaping proposals include substantial new landscaping on the site.

The applicants have backed up their application with a Planning Justification, Flood Risk Assessment and Ecological Appraisal.

The Planning Justification states that in terms of the Structure Plan, this development of 27 houses is unlikely to prejudice the housing developments at the Western Gateway and notes that the applicants, Betts, are one of the main developers in the Western Gateway. In terms of the Local Plan, it



accepts that there is a conflict as the site is not allocated for development. It notes that the Reporters Finding on the Local Plan Inquiry did not rule out housing as a matter of strategy but considered that a number of matters of detail needed to be addressed. The justification suggests that these details have now been resolved and that there are a number of material considerations that justify the approval of the application. These include the



fact that the area of nature conservation interest by the Fithie Burn will not be affected, that there will be no flood risk associated with the proposal, that provision is made for the construction of a footway along Kellas Road all the way to Baldovie Toll, that the number of houses is limited and the site boundaries confined and that landscaping will integrate the development into the landscaped setting along Kellas Road.

The Flood Risk Assessment concludes that the area of the site proposed for development is free from flooding from the Fithie Burn during the 1 in 200 year plus climate change event and that the development of the site will not cause an increase in flood risk to areas upstream, adjacent or downstream during this event. SEPA and the Council were consulted in the drafting of the Flood Risk Assessment. The advice given was that the development should be designed to cater for a 1:200 period with an allowance of 20% for climate change and an additional freeboard allowance. This advice was taken on board in the Flood Risk Assessment.

The Ecological Appraisal concludes that the Fithie Burn is of local ecological interest but that the remainder of the paddock is a poor habitat. It states that the ecological and visual value of the Fithie corridor should be protected by a landscaped buffer zone.

SITE DESCRIPTION

The site is a triangular shaped paddock of some 2.25 hectares, enclosed to the north and west by the Fithie Burn and to the east by the Kellas Road. A sliver of land of some 0.26 ha (just over 10%) at the northern end of the site is within Angus Council area.

There are mature trees along the banks of the Fithie which screen the site to the north and west. To the west of the Fithie is a suburban housing development at Knapdale Place, Ardmish Place and Sunadale Court and Old Toll Loan. To the north of the Fithie are recently completed housing developments at Ballumbie Castle. To the east, on the opposite side of Kellas road, is Pitkerro House and estate and there is a shelter belt of mature trees along the east side of Kellas Road. To the south of the site is a ribbon development of individual houses taking access from Kellas Road. There are no footways and no street lighting on this section of Kellas Road.

Most of the site is relative flat, falling away to the Fithie Burn to the west and south west.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

The Guiding Principles of the Structure Plan promote sustainable development including the integration of land use and transport and giving priority to previously developed sites.

The settlement strategy for Dundee in the Structure Plan is to establish a focus for additional land release for housing and employment development to the west of the city, to support the regeneration of brownfield sites and to control the amount of greenfield land for housing development in other sectors of the city.

Part of the Structure Plan's integrated approach towards population loss from Dundee, seeks further improvement to the quality and locational choice of housing development sites in the Dundee and South Angus housing market area. Housing Policy 1 requires Local Plans to allocate land to meet the housing land allowances identified in Schedule 1 in accordance with the Structure Plan strategy.

Housing Policy 2 states that proposals for major development on greenfield sites will not be permitted where this would seriously prejudice implementation of the Dundee Western Gateway development. A maximum figure of 390 greenfield additions to the housing land supply at June 2001 is stipulated for the period from 2001 to 2011.

Transport Policy 4 seeks to ensure that development takes place in the most accessible locations and has safe, convenient and attractive facilities for pedestrian, cycle and public transport access.

Dundee Local Plan Review 2005

In this plan the site is allocated as open countryside and Policy 74 contains a presumption against unallocated development in this area. The area alongside the Fithie Burn, where no development is proposed, is indicated as a site of importance for nature conservation and a wildlife corridor protected by Policy 70 and an area of open space protected by Policy 66.

Policy 2 Housing Land Release states that additional greenfield land release will only be supported where allocated

greenfield sites are agreed not to be effective and where the scale and location of development is in accordance with the development strategy of the Structure Plan.

Paragraph 9.4 of the Plan adds that the Council will require to be satisfied that progress is being made on the implementation of the Western Gateway before consenting to additional greenfield development elsewhere.

Policy 4 Design of New Housing and Appendix 1 set out standards for the design and layout of suburban developments. Policy 5 Open Space provision sets out open space requirements for new housing developments.

Policy 20 states that developer contributions towards the cost of infrastructure provision both on and off site will be sought where necessary and appropriate.

Policy 55 encourages good design and Policy 56 implements a "Percent for Public Art" Policy for major new developments.

Policy 70 seeks to protect semi natural greenspaces of local nature conservation importance, such as the Dighty Valley corridor. Policy 72 Trees and Urban Woodland requires new development to have regard to existing healthy mature trees and encourages their retention.

Policy 75 requires that all "development proposals must be accompanied by a Sustainable Drainage Scheme". Policy 76 contains a presumption against development in areas of high flood risk (equivalent to the 1:200 period).

With respect to accessibility and transportation matters, Policies 81, 82 and 83 seek to promote ease of access by pedestrians, cyclists and public transport users and to enhance facilities and infrastructure for these sustainable modes of travel. With regard to roads matters, the Plan seeks to reduce the dominance of the private car and promote the use of alternative modes.

Scottish Planning Policies, Planning Advice Notes and Circulars

SPP3 Land for Housing, SPP7 Planning and Flooding and SPP17

Planning for Transport are of relevance to the determination of this application, but the principles set out in these documents are carried through the Structure Plan and Local Plan and a separate assessment of the application in the context of these documents is not required.

Non Statutory Statements of Council Policy

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

SUSTAINABILITY ISSUES

The following sustainability policy implication arises from this application:

The site is on the fringe of the urban area and is not served by footways or street lighting. There is an issue about the accessibility of this site to all modes of transport and this issue is discussed in greater detail below (assessment of the development against Transport Policy 4 of the Structure Plan).

The area adjacent to the Fithie Burn is a site of importance for nature conservation and a wildlife corridor. It is also an area susceptible to flooding. These issues are discussed in greater detail below (assessment of the development against Policies 66, 70 and 76 of the Local Plan).

SITE HISTORY

There is no relevant history of planning applications. However at the inquiry on the Local Plan, Betts proposed a number of housing developments in this area, including one on this site. The Inquiry Reporter rejected housing on the site and the open countryside allocation was maintained. He concluded that the scale of development was not sufficiently large to be ruled out in principle as conflicting with the Structure Plan. He further concluded that if a strip along the Fithie Burn was maintained free from development then the development of the remainder of the site was not precluded on natural heritage grounds. He concluded that if land to the south of the site was maintained free from development then flooding need not be a constraint.

However he noted that until planting became established along the Kellas Road houses on the site would be intrusive in the rural character of this part of the Kellas Road and that there was no safe pedestrian access between the site and the built up area to the south.

He concluded that the site could be allocated for housing after 2011 but the capacity would be limited, that there did not appear to be satisfactory pedestrian and cycle access and that development would be a less acceptable edge than the existing. On this basis he did not allocate the site.

PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposal was advertised as contravening the Development Plan.

A letter of objection was received from residents of a house to the west of the site (copies available for inspection in the Members Lounge). The concerns raised relate to contravention of the Development Plan, poor design, excessive density, traffic safety and lack of pedestrian access, drainage concerns, impact on nature conservation and potential damage to trees. The objectors consider that the Ecological Assessment is not sufficiently comprehensive and that there are errors in the Tree Report. They state that developments at Ballumbie Castle have had an adverse impact on nature conservation in this area.

The points raised in this letters are fully considered in the Observations section of this report.

CONSULTATIONS

Angus Council notes that the site is not allocated for housing in the adopted Dundee Local Plan Review 2005 and that the development of the site was rejected by the Inquiry Reporter and that this rejection was accepted by Dundee City Council. It also points out that it is currently investigating the possibility of constructing a footpath along Kellas Road from Ballumbie Castle to Baldovie Toll.

The Council's Forestry Officer has requested planning conditions to ensure the protection and management of trees to be retained and the provision of new planting on the site.

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.

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 and Angus Structure Plan 2001-2016

As referred to in the Policy background section above, the Structure Plan promotes a focus for additional land release for housing and employment development to the west of the city and seeks to control the amount of greenfield land for housing development in other sectors of the city.

This control is exercised through Housing Policy 2 which sets a maximum figure of 390 greenfield additions to the housing land supply in the north and east of the city for the period from 2001 to 2011. As this maximum figure has recently been fully allocated in the Dundee Local Plan Review, the development currently proposed exceeds the maximum figure. However taking into account the small scale of the development it is difficult to argue that this proposal, on its own raises strategic considerations. This is also the approach that was taken by the Reporter dealing with the Inquiry on the Local Plan.

Transport Policy 4 seeks to ensure that development takes place in the most accessible locations and has safe, convenient and attractive facilities for pedestrian, cycle and public transport access.

In this case, although the site is close to the built up area, the lack of a footway and street lighting along the Kellas Road forms a barrier to access by pedestrians and cyclists. This was a matter pointed out by the Inquiry

Reporter and one of the reasons why the site was not allocated for housing.

However to address this concern, the applicants have proposed to form a continuous lit footway on the west site of the Kellas Road from the application site to Baldovie Toll. If Members are minded to approve the application, then provision can be made for the establishment of this link by a planning condition. There are existing bus services on the Kellas Road and a bus stop can be provided at the application site. In these circumstances the development will be as sustainable as other suburban developments on the fringe of the city.

Dundee Local Plan Review 2005

In this plan most of the site is allocated as open countryside and Policy 74 contains a presumption against unallocated development in this area. The proposed development contravenes this policy.

Policy 2 Housing Land Release states that additional greenfield land release will only be supported where allocated greenfield sites are agreed not to be effective and where the scale and location of development is in accordance with the development strategy of the Structure Plan. The proposed development contravenes this policy.

Paragraph 9.4 of the Plan adds that the Council will require to be satisfied that progress is being made on the implementation of the Western Gateway before consenting to additional greenfield development elsewhere. Work is well underway on the redevelopment of the former Liff Hospital site; in these circumstances, it is unlikely that a small development of 27 houses at this site will significantly affect progress on the Western Gateway and indeed this approach is similar to that taken by the Reporter on the Inquiry into the Local Plan and by the Scottish Executive in dealing with an application for 39 houses on an unallocated site at Linlathen on the Arbroath Road.

The western part of the site is indicated as a site of importance for nature conservation and a wildlife corridor protected by Policy 70 and an area of open space protected by Policy 66. However no construction will take place in this area and there are proposals to carry out arboricultural works to the existing trees and plant

new trees. In these circumstances the development will be in accordance with these policies.

Policy 4 Design of New Housing and Appendix 1 set out standards for the design and layout of suburban developments. Policy 5 Open Space provision sets out open space requirements for new housing developments. The proposed development is in full compliance with these standards.

Policy 20 states that developer contributions towards the cost of infrastructure provision both on and off site will be sought where necessary and appropriate. Policy 55 encourages good design and Policy 56 implements a "Percent for Public Art" Policy for major new developments. In this case the design of the proposed development is satisfactory and the developers have offered to construct a lit footway from the application site to Baldovie Toll to serve the development. This matter can be covered by a suspensive condition should Members be minded to approve the application.

Policy 72 Trees and Urban Woodland requires new development to have regard to existing healthy mature trees and encourages their retention. The proposals are satisfactory in this regard and these matters can be dealt with by planning condition should Members be minded to approve the application.

Policy 75 requires that all "development proposals must be accompanied by a Sustainable Drainage Scheme". The proposals in this regard are satisfactory.

Policy 76 contains a presumption against development in areas of high flood risk (equivalent to the 1:200 period) and in favour of development in medium to low risk areas (between 1:1,000 and 1:200 year annual probability of flooding). In this case the Flood Risk Assessment states that the proposed development will only occupy the area of the site free from flooding from the Fithie Burn during the 1:200 period plus a 20% allowance for climate change plus an additional allowance of 300mm. In fact not just the houses but all of the garden areas are outwith this area.

This complies with the advice given by SEPA and the Council prior to the drafting of the Report. The Flood Risk Assessment also states that the SUDS

drainage scheme for the site has sufficient capacity to contain any increase in run off as a result of the development.

In these circumstances the proposed development complies with Policy 76 of the Plan.

With respect to accessibility and transportation matters, Policies 81, 82 and 83 seek to promote ease of access by pedestrians, cyclists and public transport users and to enhance facilities and infrastructure for these sustainable modes of travel. With regard to roads matters, the Plan seeks to reduce the dominance of the private car and promote the use of alternative modes. These matters have been considered in the context of Transport Policy 4 of the Structure Plan and are considered to be satisfactory.

It is concluded from the foregoing that the proposal does not raise issues in connection with the Structure Plan. However it fails to comply with Policies 2 and 74 of the Local Plan.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Other Material Considerations

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

a Supporting Information by the Applicants

The applicants have stated in their Planning Justification that in terms of the Structure Plan, this development of 27 houses is unlikely to prejudice the housing developments at the Western Gateway and notes that the applicants, Betts, is one of the main developers in the Western Gateway. In terms of the Local Plan, it accepts that there is a conflict as the site is not allocated for development. It notes that the Reporters Finding on the Local Plan Inquiry did not rule out housing as a matter of strategy but considered that a number of matters of detail needed to be addressed. The justification suggests that these details have now been resolved and that there are a number of material considerations that justify the approval of the application. These include the fact that the area of nature conservation interest by the Fithie Burn will not be affected, that there will be no flood risk associated with the proposal, that provision is made for the construction of a footway along Kellas road all the way to

Baldovie Toll, that the number of houses is limited and the site boundaries confined and that landscaping will integrate the development into the landscaped setting along Kellas Road.

It is considered that each of these considerations are substantiated and that they should be given due cognisance when considering whether to grant planning permission contrary to the provisions of the development plan.

Therefore the determining issue for this application relates to whether there are sufficient material considerations to justify an exception to Policies 2 and 74 of the adopted Dundee Local Plan Review 2005. It is considered that this can be justified for the following reasons:

- 1 The proposal is for only 27 houses which represents a relatively minor amount of housing in excess of the current Development Plan allocations, and indeed the Inquiry Reporter on the Local Plan concluded that the development of this site would not raise strategic issues.
- 2 The approval of a housing development on the application site will not create a precedent for further major greenfield land release. This is because the site is contained by strong boundaries with existing housing developments to the north, west and south and the Kellas Road to the East. Every planning application requires to be judged on its own merits.
- 3 The development as proposed provides for a discrete and well screened group of houses. Substantial landscaping is proposed to integrate the development into the landscape. This will create an attractive urban edge as the city is approached from the Kellas Road.
- 4 The issues raised at the inquiry on the Local Plan, namely nature conservation, flooding, footway access and integration of the site into the landscape have all been addressed satisfactorily by the application. Effectively the only conflict with the Reporters findings is that he envisaged the site being developed after 2011.

However given the small scale of the proposal, the earlier release of this site will not have any strategic implications.

- 5 The proposed development fully complies with all of the other policies and quality standards of the Development Plan and will provide high quality housing at this location.
- b Views of the Objectors and Consultees

The matters raised in the letter of objection are mostly discharged elsewhere in the Observations Section of this report (i.e. Development Plan conflict; lack of pedestrian access; Impact on Trees and Nature Conservation).

Although the objectors have concerns about the quality of the Tree Report and Ecological Assessment, it is considered that these reports are satisfactory and that the proposed development is sufficiently distant from the Fithie and the trees to avoid any unacceptable impact. There is no doubt that there will be some disturbance during the construction period, but the erection of a tree protection fence (which will be the subject of a planning condition should Members be minded to approve the development) will keep construction activity away from this area.

Concerns about the design and density of the development are not supported. Although the houses are clustered together in a group, the land occupied by houses, their garden areas, roads and driveways amounts to only half of the site area. This gives the development a much more spacious impact more in keeping with the semi rural character of the area. In addition the layout of the houses fully complies with the Local Plan standards for this area. The design of the development has been augmented by finishing materials in keeping with this semi rural setting and proposals for tree and shrub planting will ensure that the development will be attractively integrated into the landscape.

Finally the objectors raise concerns about traffic safety and drainage. The proposed access point affords good sight lines in both directions and the provision of lighting and a footway will enhance pedestrian, cyclist and vehicle safety. The proposed drainage concerns relate to fears that the site

would be drained using septic tank drainage. In fact the site will be drained by a connection to the public sewer.

The issues raised by Angus Council have all been addressed in the assessment of the development against the Development Plan. The concerns of the Council's Forestry Officer can be addressed by planning conditions should Members be minded to approve the application.

It can be concluded from the foregoing that sufficient weight can be accorded to the above material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan.

It is therefore recommended that planning permission be granted with conditions.

Design

The design of the development has been augmented by finishing materials in keeping with this semi rural setting and proposals for tree and shrub planting will ensure that the development will be attractively integrated into the landscape. In addition the layout of the houses fully complies with the Local Plan standards for this area.

CONCLUSION

The proposed development represents an acceptable minor breach of the housing allocation in the Development Plan.

RECOMMENDATION

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

- 1 The development hereby permitted shall be commenced within five years from the date of this permission
- 2 Samples of all finishing materials shall be submitted for the prior written approval of the planning authority before any development commences. These shall in any case consist of wet dash harl for walls with limited cast stone window surrounds and slate for roofs.
- 3 No dwelling house shall be occupied prior to the completion of a new lit footway on the western side of Kellas Road

from the northern extremity of the application site to the existing network at Baldovie Toll and the provision of a bus stop adjacent to the development. The specification of this footway, street lighting and bus stop shall be submitted for the prior written approval of the Council before any work commences.

- 4 The site drainage shall observe SUDS principles, and full details thereof shall be submitted for the prior written approval of the Council before any work commences.
- 5 No trees or hedges within the site shall be felled other than those indicated for felling in the amended Tree Survey Report dated 11 September 2006 by A Macmillan. The felling and pruning of existing trees shall be in accordance with BS 3998.
- 6 Details of the means of protection of trees and hedges to be retained in accordance with BS 5837:2005 shall be submitted to the Council for approval before any development commences, and approved measures shall be strictly adhered to, with all details of protective fencing agreed on site with the Council (and a written record taken) before any development commences.
- 7 The landscaping of the site shall be carried out in accordance with the details set out in Drawing 0382/2H by Brindley Associates dated 27/10/06. The advance structure planting shall be carried out prior to the commencement of construction of the new access road or any of the houses on the site and shall be suitably protected and fenced off during the construction period. Details of the timing for the remainder of the planting as well as the maintenance particulars of all new planting as well as the maintenance of existing trees and hedges shall be submitted for the prior written approval of the Council before any work commences. Any trees or shrubs removed, dying, being severely damaged or diseased within 5 years if

- planting shall be replaced promptly on a like-or-like basis.
- 8 Full details of the provision of public art for the development including a timescale for implementation 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.
- 9 The conclusions of the Flood Risk Assessment by Scott Wilson Scotland Ltd dated April 2006 shall be fully implemented and in particular all properties shall be outwith the 1 in 200 year plus 20% climate change contour and the finished floor levels of the houses shall be set to a minimum of 500mm above that contour to airbrick or vent.
- set out in Policy 56 of the Dundee Local Plan Review 2005.
- 9 To ensure that the proposed houses and their gardens areas are protected from flood risk.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 3 To ensure safe and convenient access by pedestrians.
- 4 To ensure adequate drainage without any increased risk of flooding on downstream properties.
- 5 To protect those trees and hedging which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development.
- 6 To protect those trees and hedging which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development.
- 7 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
- 8 In order to provide for public art in the interests of visual amenity and in accordance with the Councils percent for art policy