

KEY INFORMATION

Ward West End

Proposal

Erection of a 1 No Dwelling House

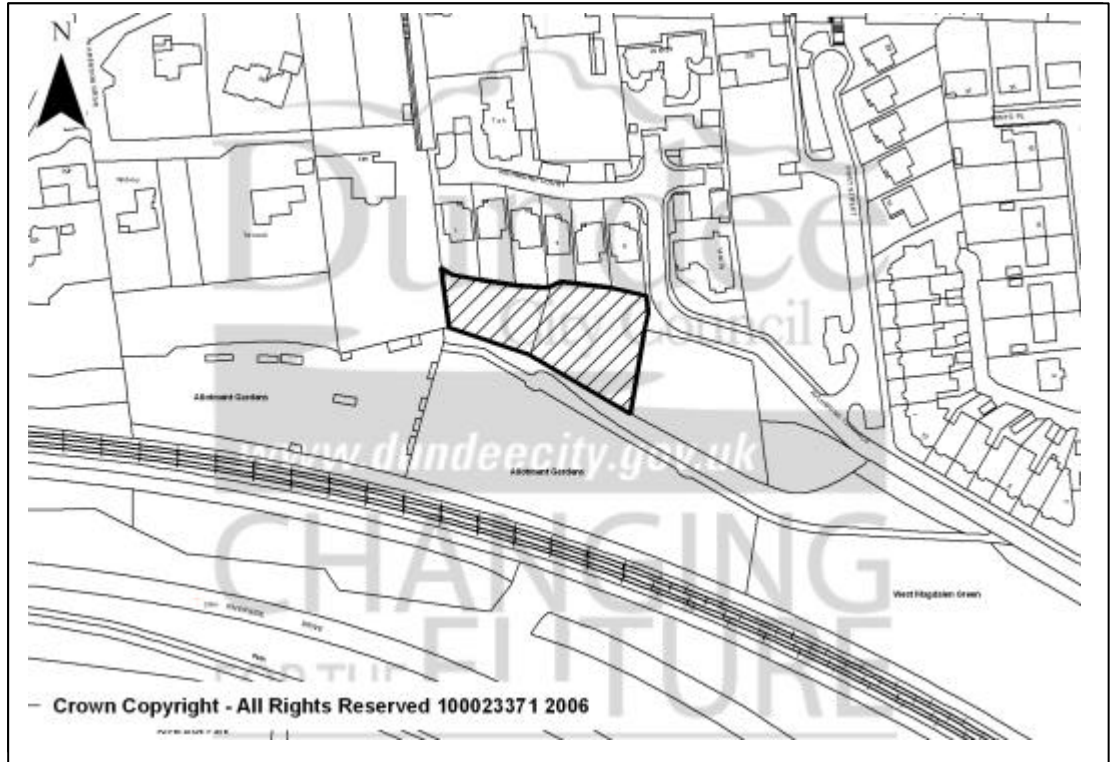
Address

Land West of Richmond Terrace, Dundee

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Registered 13 Dec 2007

Case Officer D Gordon



Proposed New House at Richmond Terrace

The erection of a dwelling house is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development is considered to conform to the relevant policies of the Local Plan Review 2005 and there are no material considerations that would justify the refusal of this application contrary to these policies. The application is recommended for **APPROVAL** with conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of a detached dwelling on a steep sloping site located to the west of Richmond Terrace. The house is considered to be innovative in design and will be finished in a limited palette of materials (stone, wood and glass). The site is located within the West End Suburbs Conservation Area.
- The proposal is similar in character and design to a previous house proposed for this site that was refused permission, on appeal, in July 2007. It is considered that there are material changes from the previous scheme that are of such a weight to justify the consideration of this new application. The proposal raises issues for consideration under Policy 1 (Vibrant and Sustainable Communities), Policy 4 (Design of New Housing), Policy 55 (Urban Design), Policy 61 (Development in Conservation Areas) and Policy 72 ((Trees and Urban Woodland))
- Eight letters of objection, including a letter from the West End Community Council, have been received. These objections raise, amongst other things, issues about the impact the proposals will have on the appearance and setting of the conservation area.
- It is concluded that the proposal is in accordance with the relevant policies of the Dundee Local Plan Review 2005. There are no material considerations, including the views of the objectors and the terms of the previous appeal decision, that are of sufficient weight to justify the refusal of this application contrary to these policies.

DESCRIPTION OF PROPOSAL

The proposal under consideration involves the erection of a dwelling house on a site located on the west side of Richmond Terrace. The new building, due to the sloping nature of the site, will be single / two storey (with roof garden and basement) on the north side and two / three storey on the south side. The proposed finishing materials will be timber, glass and stone facing. The building accommodates a flat roof and is of a contemporary and innovative design.

Garden ground is to be provided on the south, east and west side of the new house with a small roof garden located on the north side of the building. Several trees are to be removed from the site in order to accommodate the new building. A landscape plan for the replacement of these trees and the introduction of additional trees and shrubs accompanies this application.

Access into the site is to be taken from Richmond Terrace to the east. A minimum of 2 off street car parking spaces and turning facilities are to be provided on the north side of the house.

The applicants have submitted a Design Statement in support of their proposals.

This application is very similar in character and design to a proposed dwelling that was refused planning permission for this site (on appeal) in July 2007. The applicants have advised that several changes to the proposals have been introduced including:

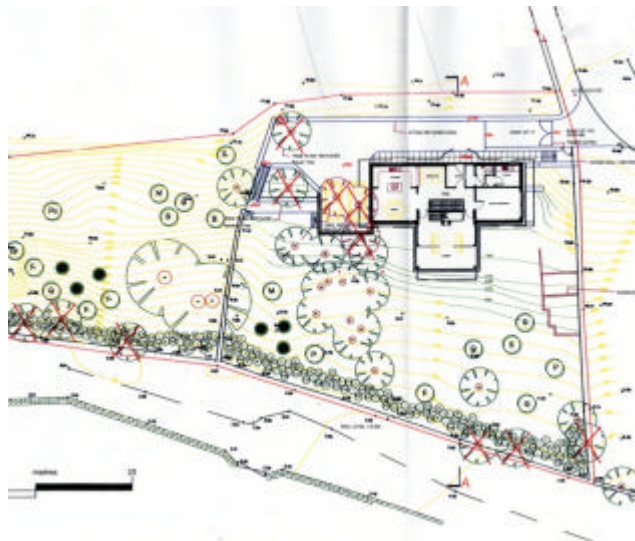
- a reduction in the height of the roof by 450mm;
- removal of 2 glass balconies from the south and east elevations;
- improvement of the vehicular turning facility; and
- the introduction of significantly enhanced landscape proposals particularly on the south side of the site.

SITE DESCRIPTION

The application site is located to the west of Richmond Terrace, with Richmond Court to the north.

Allotment gardens and the railway line are located to the south. The surrounding area is generally residential in character with the open space of Magdalen Green located further to the east.

The site, which slopes steeply in a



north to south direction, is covered in a variety of trees and vegetation. The area is bounded, in part, by stone walls that vary in height and repair. The site commands good views to the south over the river and is also highly visible from Riverside Drive to the south.

The site is located within the West End Suburbs Conservation Area.



POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities. New developments

should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 4: Design of New Housing. The design and layout of all new housing in Dundee should be of a high quality. As a basis for achieving this, new development will be required to conform to the Design Standards contained in Appendix of the Local Plan

Policy 55: Urban Design. This policy seeks to ensure high quality of design in all new developments.

Policy 61: Development in Conservation Areas. All developments will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features.

Policy 72: Trees and Urban Woodland. New developments must have regard to existing healthy mature trees, the survival and retention of which will be strongly encouraged through sensitive site layouts and both during and after construction. Where appropriate, development proposals must be accompanied by a tree planting and landscape scheme which includes a supporting justification and sufficient map based material to document existing planting within the application site, as well as new planting and maintenance arrangements. The Council will promote Tree Preservation Orders to protect individual trees or entire planting schemes where expedient to do so.

Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application

Non Statutory Statements of Council Policy

The following policy statements are of relevance:

The Urban Design Guide advises that new buildings including infill developments should be well designed, flexible and outwardly expressive as to their purpose. In addition, imaginative and innovative contemporary architecture is sought to discourage 'off-the-peg' design and debased versions of historical style.

SUSTAINABILITY ISSUES

The proposal will result in enhanced landscaping within a conservation area. It is considered that the proposal does not raise any specific concerns in relation to the Council's sustainability policies.

SITE HISTORY

The land to the north of the application site has been the subject of planning applications for residential developments. These developments have now been completed.

The site currently under consideration has been the subject of 3 recent applications:-

04/00126/OUT - Outline consent for Dwelling House - Application withdrawn 28.04.2004

04/00683/FUL - Erection of Dwelling House - Application withdrawn 29.11.2004

05/00563/FUL - Erection of Dwelling House - Application withdrawn by applicants 28.10.2005

06/01009/FUL - Erection of Dwelling House - Refused on Appeal 23rd July 2007

PUBLIC PARTICIPATION

The statutory neighbour notification procedure has been completed by the applicants. The proposal was also advertised in the local press as Development Affecting the Setting of a Conservation Area.

The application has attracted eight letters of objection, including a letter from the West End Community Council.

The main issues raised by the objectors relate to:

- 1 The development will result in a loss of trees to the detriment of wildlife and the setting of the conservation area
- 2 the proposed development will create an undesirable precedent
- 3 the development will result in the overshadowing of adjacent properties.
- 4 the development does not adhere to the street pattern of the local area
- 5 the development will have an adverse impact on road traffic and pedestrian safety.

Copies of these objections can be viewed in the Members Lounges. It is intended to comment on these issues in the 'Observations' section of this report below.

CONSULTATIONS

The West End Community Council has advised that it is opposed to the proposed development by virtue of the provision of a house on the predominantly sloping site would not protect or enhance the character or appearance of the conservation area. They further advise that the development would erode this wooded area which is part of the green Wildlife Corridor which links Magdalen Green to the landscaped approach to Dundee from the west.

The Council's Forestry Officer has been involved in discussions in the removal of certain trees from the site and has offered no objections to the proposals.

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

The proposal under consideration involves the erection of a dwelling house on a steep sloping site located on the west side of Richmond Terrace. The building, due to the site characteristics, will vary in height from two to three storeys and will be finished in timber, glass and stone facing. A significant amount of garden ground is associated with the development in addition to a roof garden being proposed on the north side of the house. Access into the site is taken from the east and two off-street parking spaces and turning facilities are to be provided on the north side of the dwelling. The location and the design of the proposed new dwelling are similar to a previous application for a house on this site which was refused, on appeal, in July 2007. This matter is expanded upon in the 'Other Material Considerations' section of this Report below. An outline of the differences in the design of the building is outlined in the 'Description of Proposal' section of this report above.

The proposal raises issues for consideration in terms of Policy 1 (Vibrant and Sustainable Communities) that seeks to ensure that new development does not adversely affect the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

On its northern side, the site adjoins the rear garden boundaries of 3 detached houses in Richmond Court. The upper floor of the proposed house would stand within 17 metres of the main rear elevations of those houses, but the finishes surrounding the roof garden at that level would avoid any significant loss of privacy, and the disturbance caused by vehicles passing along the proposed driveway between the house and the adjoining properties would not be very significant, as it would be below the level of the neighbouring gardens. There would be some loss of outlook for residents of the existing houses, particularly during the winter months, but this would be restricted, due to the limited extent to which the proposed house would appear above the level of the existing boundary fence; and there would be no significant overshadowing. In terms of parking and traffic movement, it is not considered that there would be a significant detrimental impact on the road traffic safety of the surrounding

area given that the proposed development is for a single dwelling house only. Given the residential nature of the development, it is considered that there is no noise or smell implications with this application. In this respect, it is considered that the proposals accord with Policy 1.

With regard to Policy 4 (Design of New Housing), this seeks to ensure that in this inner city location the development respects the surroundings and meets the relevant guidelines set out in the Local Plan. It is considered from the details submitted for consideration that the new house will provide the amount of living accommodation and private amenity ground that is required by Policy 4. In addition, as the new structure would, to a significant degree, be set at a lower level than the surrounding residential properties and as there will be no windows at a higher level directly overlooking adjacent properties to the north, the neighbouring properties will not be adversely affected by a reduction in privacy or subject to overshadowing. With regard to the proposed roof garden on the north side of the house, the applicants have advised that a suitable boundary enclosure (minimum 1.8 metres in height), is to be provided along its north side ie facing the residential properties in Richmond Court. In this respect, the proposal meets the requirements of Policy 4 of the Plan.

The proposals also raise issues under Policy 55 (Urban Design) of the Local Plan. By virtue of the steep sloping topography, the site does not lend itself naturally to residential development. However, it is considered that the provision of a high quality innovative development may provide a reasonable justification for the provision of a single dwelling on this unique south facing site. It is considered that the proposal achieves the quality of design that this site demands. The house has been designed specifically for this plot and its flat roof appearance together with the use of a limited palette of materials combine to provide a solution that is highly innovative and appropriate for the site and the surrounding area. In addition, the landscape of site together with the steep slope of the site will ensure that the structure will not play an over dominant role in the in the make-up of the area nor when viewed from

Riverside Drive to the south. The applicants have submitted a Design Statement and an enhanced landscape plan in support of their proposals. In this respect, it is considered that the proposals are consistent with the requirements of Policy 55.

The application site is located within the West End Suburbs Conservation Area and consequently, Policy 61 (Developments within Conservation Areas) is of relevance. This policy seeks to ensure that all developments complement and enhance the character of the surrounding area. The matters relating to the design of the building have been discussed above. The site sits in a prominent position on a steep sloping, south facing site that is visible from Riverside to the south. The surrounding area accommodates a variety of house designs ranging from traditional stone built villas and terraces to modern 2 storey housing. The area is also characterised by a tree belt running along the north side of the railway that that acts as a screen for the houses located to the north. The introduction of a new house of the design proposed on the application site is unlikely to detract from the character of the surrounding area indeed it is considered that the proposed development will have less of an impact than the existing housing located to the north.

In the determination of the appeal against the refusal of a previous planning application for the erection of a similar house design on this site in 2007, the Inquiry Reporter found that, amongst other things, that the insertion of a house of the design proposed into these prominent wooded slopes would not protect or enhance either the character or the appearance of the conservation area. The applicants have submitted enhanced landscape proposals for the site which includes the provision of a 2 metre wide planted belt on both the south side of the application site and the adjacent site to the west and the introduction of new conifers and extra heavy standard trees through the site. It is considered that these planting proposals will provide an appropriate setting for the new house will lessen the impact of the development within the local area and will serve to improve the setting and appearance of the conservation area. In this respect, it is considered that the proposals are in accordance with Policy 61.

Policy 72 requires that any new development must have regard to existing healthy mature trees. The proposal will involve the removal of eight trees from the north and south side of the site. These trees are not considered to be of significant value to the site or the setting of the surrounding area. The submitted proposals have been discussed and agreed with the Council's Forestry Officer. The proposal is considered to be in accordance with Policy 72.

The Members are advised that the unauthorised removal of one tree from the east side of the application site and approximately five trees from the adjacent site to the east took place in January 2008. The removal of these trees has exposed the setting of the flatted properties to the north as viewed from Riverside Drive. It is understood that this matter has been reported to the police by the applicant by virtue of unauthorised damaged being carried out on private property. In addition, this Council have met with the owners of the adjacent site to the east and agreed the replacement planting details for the trees that have been removed. To date no approach has been made by this Council to the owners of the site currently under consideration relating the replacement of the tree that has been removed due to the enhanced landscape scheme that accompanies this application. Should this application be refused permission, the replacement of the removed tree will be pursued.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

Objections

The main relevant issues raised by the objectors are identified in the 'Public Participation' section of this report above.

With regard to the matters relating to the impact of the proposals on the setting of the conservation area, the overshadowing of adjacent properties and the impact on road traffic safety, it is considered that these issues have been discussed and discharged in the policy considerations of this development.

With regard to the matter of the development not being in accordance with the street pattern of the local area, it has been argued that this is a unique site that demands an innovative solution. The failure of the proposal to adhere to the general street pattern is not of a sufficient weight, particularly in light of the design of the new building, to set aside the terms of the development plan and refuse the application.

With regard to the matter raised regarding precedent, planning authorities are not obliged to follow their previous decisions on similar applications. In this respect, each new application for the development of any adjacent sites will be determined on their own merits.

With regard to the loss of trees and the subsequent impact on wildlife, it is considered that the introduction of significant additional planting in the area will generally improve the wildlife habitat of the area. A local resident has approached the Scottish Bat Officer about the potential impact the removal of certain trees may have on possible bat roosts in the area. The Members are advised that bats are a 'European protected species of animal' and are fully protected by law. The applicants have carried out and submitted a bat survey of the site to accompany their application and have concluded that there is one tree which has a high potential for future bat occupation due to the existence of a 'cavity' in the tree even although no sign of bats has been found. This tree is located on the south side of the site some distance from the proposed new house but is to be removed from the site due to its potential to damage the sea wall which is a listed structure. To compensate for the loss of potential roosts after felling this tree, the pieces of timber containing features with potential for roosting bats could be re-erected in neighbouring trees. This is a practice that has proven to be successful in the past. Where this is not practicable it has been suggested that 3 bat boxes be erected in neighbouring trees for every tree lost with high potential for roosting bats. The applicants have advised that they are in agreement to a condition being attached to any permission granted that requires the creation of new bat roosts within the site.

Planning (Listed Building and Conservation Areas) (Scotland) Act

1997 is of relevance as the application site is located within the West End Suburbs Conservation Area. It is concluded from the issues that have been raised in the policy considerations of the proposal that the statutory duty set out in Section 64 of the Act, to preserve or enhance the character and appearance of the Conservation Area would be satisfied by the approval of this application.

The Memorandum of Guidance on Listed Buildings and Conservation Areas seeks to ensure that new development in Conservation Areas is well designed, respects the character of the area and contributes to its enhancement. Special regard should be paid to such matters as scale, bulk, height, materials, colour, vertical and horizontal emphasis and detailed design. In light of the above policy considerations it is considered that the proposed development meets the requirements of the Memorandum.

The Members have been advised above that the site was the subject of a similar planning application for the erection of a house that was refused permission, on appeal, in July 2007. The Inquiry Reporter considered that the intrusion of a dwelling house on this site would adversely impact on the setting and appearance of the conservation area. The applicants have submitted enhanced and improved landscaping proposals for the site that are considered to be of such a weight that reconsideration of the proposal is appropriate. It has been concluded from the submitted details that the proposed landscape scheme will improve the setting of the new house and enhance the appearance and setting of the conservation area.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

Design

The proposed new building is a two / three storey flat roof dwelling that is to be finished in a limited palette of timber, glass and stone facing. The scale, massing, design, appearance and materials of the proposed new house are all considered to be innovative and

highly appropriate for the site and the surrounding area.

CONCLUSION

The proposed development is considered to be in accordance with the relevant development plan policies for the area. It is also considered that the proposal would, by virtue of its innovative design, have no adverse affect on adjacent occupiers or the setting of the surrounding conservation area. It is also considered that there have been material changes to the character of the application, from the previous application that was refused permission on appeal, that are sufficient in weight to justify determination of this application and offering support for the proposal. There are no material considerations that would justify the refusal of this application contrary to the requirements of 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 the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples
- 3 That the landscaping of the site shall be carried out only in full accordance with the details as identified on the submitted plan to accompany the application (Emler's Drawing No: 07-25/P1 dated 23/12/07 refers). For the avoidance of doubt, the scheme shall be fully implemented within the first planting season following the first occupation of the building or within a further period of time as agreed in writing with the planning authority.
- 4 Development of the site shall not begin until all the trees that have been identified for retention within the site have been fenced off in accordance with BS5837,2005. For the avoidance

of doubt, these trees shall remain fenced off until all development works have been fully completed.

5 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:

- the nature, extent and type(s) of contamination on the site
- measures to treat / remove contamination to ensure that the site is fit for the use proposed
- measures to deal with contamination during construction works
- condition of the site on completion of decontamination measures.

Before the residential unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority

6 That details of new bat roosts to be provided within the site shall be submitted to and approved in writing by the planning authority prior to the commencement of works. For the avoidance of doubt these new roosts shall be provided within the site within 6 months of the first occupation of the dwelling or within a further period of time as agreed in writing with the planning authority.

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 a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
- 4 To protect those trees which are of significant amenity value to

the area and which would ensure an enhanced and satisfactory standard of appearance of the development.

- 5 In order to ensure that the site is fit for the use proposed.
- 6 In order to provide alternative roosts for bats.