

# Garden Landscaping Works

## KEY INFORMATION

**Ward** West End

**Address**

11 Osborne Place  
Dundee  
DD2 1BE

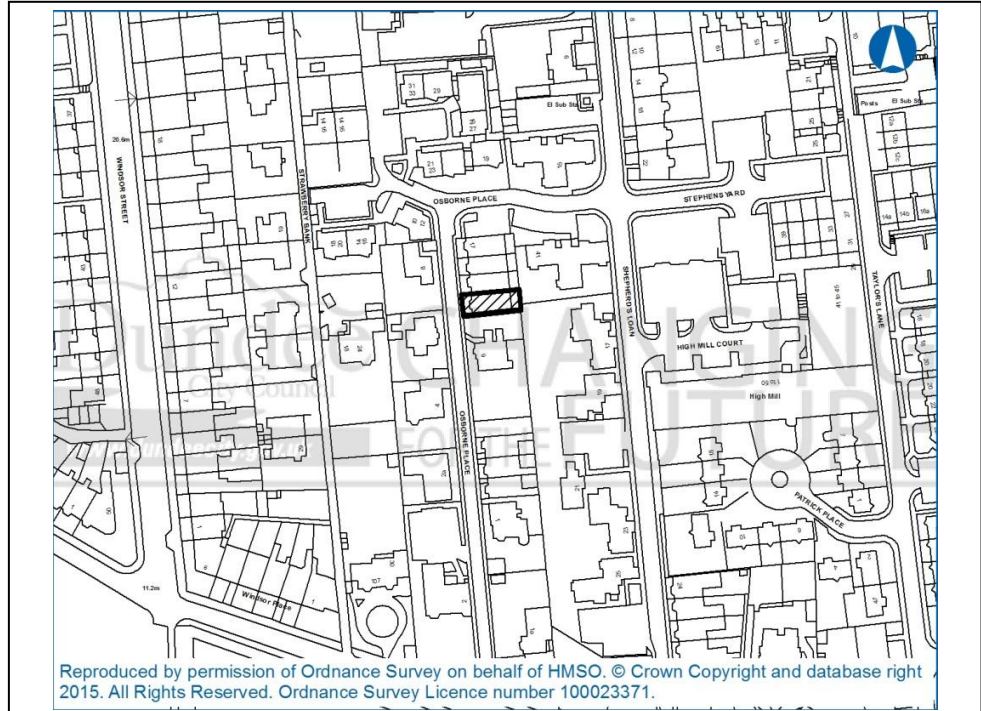
**Applicant**

Dr Michael Allan  
WaterPro Environmental Ltd  
Tenacity House  
11 Osborne place  
Dundee  
DD2 1BE

**Agent**

**Registered** 11 Dec 2015

**Case Officer** Craig Swankie



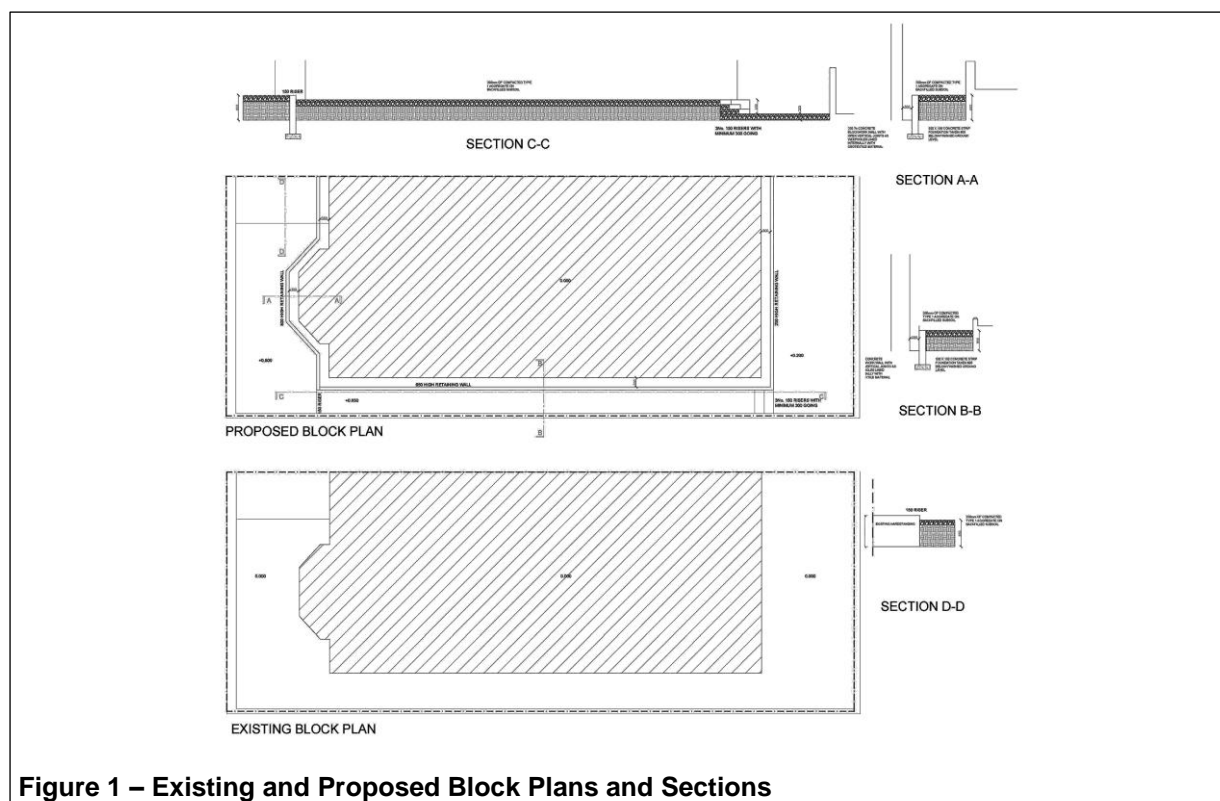
## SUMMARY OF REPORT

- The application proposes the erection of a retaining wall to the front (west), side (south) and rear (east) elevations of the existing house and associated landscaping of garden ground.
- This application is partially retrospective. Work to excavate the front, side and rear garden ground has been undertaken, a new boundary wall to the south has been erected with railings on top and a 1m wide opening in the property's front boundary wall has been created prior to submission of the application.
- Policy 10: Householder Development and Policy 50: Development in Conservation Areas of the Local Development Plan are relevant to the proposed development.
- In accordance with the Council's scheme of delegation, this application is to be determined by the Development Management Committee as 6 valid written objections have been received, as well as an objection from the West End Community Council.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=summary&keyVal=NZ37XZGCK1800>.

## RECOMMENDATION

The proposed development complies with the relevant policies of the development plan. There are no material considerations that would justify the refusal of this application. The application is therefore recommended for **APPROVAL** subject to a condition.

# 1 DESCRIPTION OF PROPOSAL



**Figure 1 – Existing and Proposed Block Plans and Sections**

- 1.1 The application seeks planning permission for the erection of a retaining wall to the front (west), side (south) and rear (east) elevations of the existing house and associated back filling of garden ground at 11 Osborne Place.
- 1.2 The wall is to be constructed from concrete blockwork and is positioned 0.3m from the dwellinghouse. The height of the proposed wall is 0.8m at the front elevation, 0.65m at the side elevation and 0.2m at the rear elevation. The garden ground between the retaining wall and property boundary is to be infilled with compacted aggregate. The height of the retaining wall varies due to the changes in level within the application site. The existing excavated garden is to be back filled to the same height as the retaining wall, with changes in level addressed by steps to facilitate access from the front to the rear of the property. Overall, an area of 50m<sup>2</sup> is to be landscaped. The retaining wall is proposed to create an air gap between the garden ground and the dwelling's external walls to alleviate significant dampness and prevent such issues from arising in the future.
- 1.3 The excavation of the front and side gardens of the application site and the erection of a replacement boundary wall do not require planning permission as these works are required to treat and repair issues of dampness. The applicant had intended to reinstate the front and side garden grounds and this was confirmed in an exchange of letters between this Department and the applicant. However, to prevent the reoccurrence of dampness the applicant wishes to create an air gap between the existing house and the reinstated garden ground. The Town and Country Planning (General Permitted Development)(Scotland) Amendment Order 2011 requires any engineering works within a conservation area to obtain planning permission. In this instance as the front and side garden grounds will not be reinstated to their original condition planning permission is required for the proposed retaining wall, back filling of the excavated garden ground and erection of steps. Although this application does not include the erection of railings on top of the southern boundary wall,

this recent addition to the property requires planning permission in its own right and as such will be considered as part of this planning application.

- 1.4 The railings delineating the southern boundary of the application site extend to a height 1m above ground level. The railings are of a steel construction painted black.
- 1.5 Work has stopped on site until planning permission is obtained for the proposed retaining wall, backfill of garden ground and repair of the western (front) boundary wall.
- 1.6 In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee as 6 valid written objections have been received, as well as an objection from the West End Community Council.



Figure 2 – Photograph of Excavated Front Garden



Figure 3 – Photograph of Excavated Front Garden, Including South and West Boundaries

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## 2 SITE DESCRIPTION

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- 2.1 The application site relates to an end terrace, 3 storey villa, situated on the eastern side of Osborne Place within the West End Lanes Conservation Area.
- 2.2 Osborne Place is a gently south sloping street, with access onto Shepherds Loan to the north, and Magdalen Yard Road to the south. The area is predominantly residential in character, with a mixture of large villas and flatted properties nearby.
- 2.3 Existing boundary treatments comprise of stone walls to the east, and west. To the south the site is bound by a concrete wall with metal railings above. Immediately north of the site is 13 Osborne Place.

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## 3 POLICY BACKGROUND

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- 3.1 The following plans and policies are considered to be of direct relevance:

**DUNDEE LOCAL DEVELOPMENT PLAN**

Policy 10: Householder Developments

Policy 50: Conservation Areas

- 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 This application follows enforcement enquiry 15/00116/CONSRV related to the demolition of a boundary wall and excavation of garden ground at the site.

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## 5 PUBLIC PARTICIPATION

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- 5.1 The statutory neighbour notification procedure has been undertaken. Six letters of objection have been received raising concerns relating to the impact of the proposal on the West End Lanes Conservation Area and privacy. Concerns have also been raised in relation to work previously carried out without planning consent.
- 5.2 Members will already have access to the letters of objection and the issues raised are considered in the Observations section below.

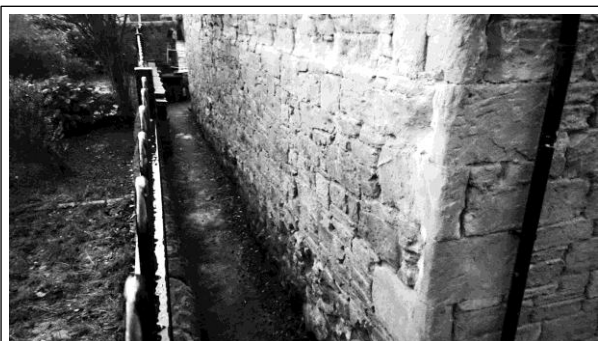


Figure 4 – Photograph of Excavated Side Garden to South of Dwellinghouse

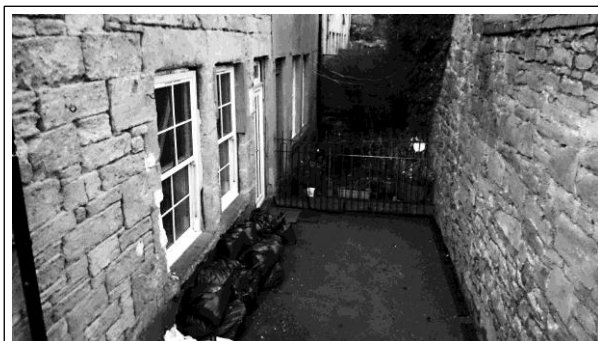


Figure 5 – Photograph of Rear Garden

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## 6 CONSULTATIONS

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- 6.1 **West End Community Council** – the West End Community Council objects to the proposal on the basis that the application is inappropriate for this site and would have a detrimental impact on the West End Lanes Conservation Area.

## 7 DETERMINING ISSUES

- 7.1 **Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.**

### THE DEVELOPMENT PLAN

The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.

### DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 **Policy 10: Householder Development** - of the Dundee Local Development Plan is supportive of householder developments which do not adversely impact on the level of

amenity afforded to existing and neighbouring properties. The preamble to Policy 10 requires householder developments to adhere to the Dundee Local Development Plan Supplementary Guidance: Householder Development 2015.

- 7.3 The supplementary guidance states that the type of boundary treatment, its materials and its height help to define the character and appearance of an area. As such, any new boundary treatments should respect the height and type of those of neighbouring properties to complement the existing character of the area.
- 7.4 The proposed development seeks to reinstate the front gardens of the property at 11 Osborne Place, provide access to the rear of the property and safeguard the future of the existing dwelling by addressing issues of dampness and preventing their re-occurrence. The proposals are of a scale, design, massing and finish that will not impact upon the appearance of the existing dwellinghouse and the proposals will maintain the character of the surrounding streetscape and conservation area by reinstating the front garden grounds of the application property. The raised level of the front garden to 0.8m above the excavated front garden ground level is acceptable and is required so as not to undermine the stability of the wall forming the western boundary of the application site or the public footpath.
- 7.5 The development will not result in a significant loss of private/usable garden ground. In providing a 0.3m air gap around the perimeter of the house the front and side garden area is reduced from 61m<sup>2</sup> to 50m<sup>2</sup>.
- 7.6 The landscaping does not create any new areas of garden ground or elevated positions, and the low level retaining wall and ground levels will not adversely effect neighbouring properties in terms of physical impact, overshadowing or overlooking.
- 7.7 The railings erected on top of the southern boundary wall are of a design that is complementary to the existing and neighbouring properties and the surrounding conservation area. The railings will provide a form of enclosure that will reinstate the level of security afforded to the application site and neighbouring properties that existed prior to the works associated with the alleviation of dampness a 11 Osborne Place.
- 7.8 The proposals will not impact on parking provision in the area. On street parking is provided on Osborne Place.
- 7.9 **The proposal satisfies the requirements of Policy 10.**
- 7.10 **Policy 50: Conservation Areas** - requires development proposals to preserve or enhance the character of conservation areas. The application site is situated within the West End Lanes Conservation Area.
- 7.11 The proposed landscaping and retaining wall will preserve the appearance and character of the West End Lanes Conservation Area. The railings erected on top of the southern boundary wall do not impact on the visual amenity of the property relative to the surrounding Osborne Place streetscape. A breach has been created in the property's front boundary wall (west elevation) to facilitate access to the site during development. To ensure the development maintains the character of the West End Lanes Conservation Area a condition requiring details of the aggregate surface materials and details of the reinstatement of the front (west) boundary wall will be incorporated into the grant of planning permission, should the Development Management Committee be minded to support the application..
- 7.12 **The proposal satisfies Policy 50.**

## STATUTORY DUTY

- 7.13 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.
- 7.14 It has been concluded from the assessment of the proposal against Policies 10 and 50 of the Local Development Plan above that the retaining wall and associated landscaping is acceptable in terms of size, design and materials. As the proposal will have a neutral effect on the character of the West End Lanes Conservation Area, the statutory duty outlined by Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would be discharged by the approval of planning permission.

## OTHER MATERIAL CONSIDERATIONS

- 7.15 The other material considerations to be taken into account are as follows.

### A - VIEWS OF WEST END COMMUNITY COUNCIL

- 7.16 The West End Community Council has objected to the proposed development.
- 7.17 **Comment:** the Community Council objects to the proposals and request the garden is reinstated to its original condition. The community council state that the end terraced house has been significantly altered and walls need to be repaired to the same height and materials as existing. Work already done to the property has lead to the neighbouring property no longer being wind and water tight. The community council considers the proposals to adversely impact on the character of the West End Lanes Conservation Area.
- 7.18 **Response:** the concerns of the Community Council have been addressed in the assessment of the proposals against the requirements of the Development Plan. It has been concluded that the proposed retaining wall, back filling of garden ground, making good of the western boundary wall and the addition of railings on top of the southern boundary wall do not adversely impact on the character of the West End Lanes Conservation Area.
- 7.19 Presently, work at the site has stopped until planning permission for the proposed development has been obtained. The garden ground remains excavated to a depth 0.8 metres below the level of Osborne Place. The proposed retaining wall and infill will address the present situation where lower parts of the property are exposed.
- 7.20 The proposals do not include any alterations to the dwellinghouse. However, concerns related to the alteration of the dwellinghouse have been investigated by this Department's Building Standards Division and no further action is required at present.
- 7.21 Damage to neighbouring properties is not a material planning consideration but a civil matter between the parties involved.
- 7.22 The concerns of the Community Council have been largely addressed in the assessment of the proposal against the requirements of the Local Development Plan. It has been concluded that the proposed development will preserve the character of the Osborne Place streetscape and surrounding West End Lanes Conservation Area through the reinstatement of the front garden of the property at 11 Osborne Place.
- 7.23 The concerns of the Community Council are not supported.

## B - VIEWS OF OBJECTORS

- 7.24 Six letters of objection have been received from neighbouring residents raising concerns about:
- 1 the proposed landscaping will be detrimental to the appearance of the terrace;
  - 2 the landscaping will reduce privacy and security;
  - 3 the proposals could set a precedent for owners of a Victorian terrace to separate their properties; and
  - 4 the removal of a boundary wall should be addressed.
- 7.25 **Response:** it has been concluded that the proposed development will preserve the character of the Osborne Place streetscape and surrounding West End Lanes Conservation Area through the reinstatement of the front garden of the property at 11 Osborne Place. The recent erection of railings along the southern boundary of the property in combination with the enclosed nature of the side and rear garden as well as the difference in ground levels minimises the visual impact of the proposals and does not raise any privacy or security concerns.
- 7.26 **The concerns of the objectors are not supported.**
- 7.27 **It is concluded from the foregoing that there are no material considerations that would justify refusal of the application.**

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## 8 CONCLUSION

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- 8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is 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 consent be GRANTED subject to the following condition:
- 1 Prior to the re-commencement of development, full details of the compressed aggregate and repair of the western boundary wall shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples.

### REASON

- 1 In order to ensure it is appropriate to the Conservation Area.