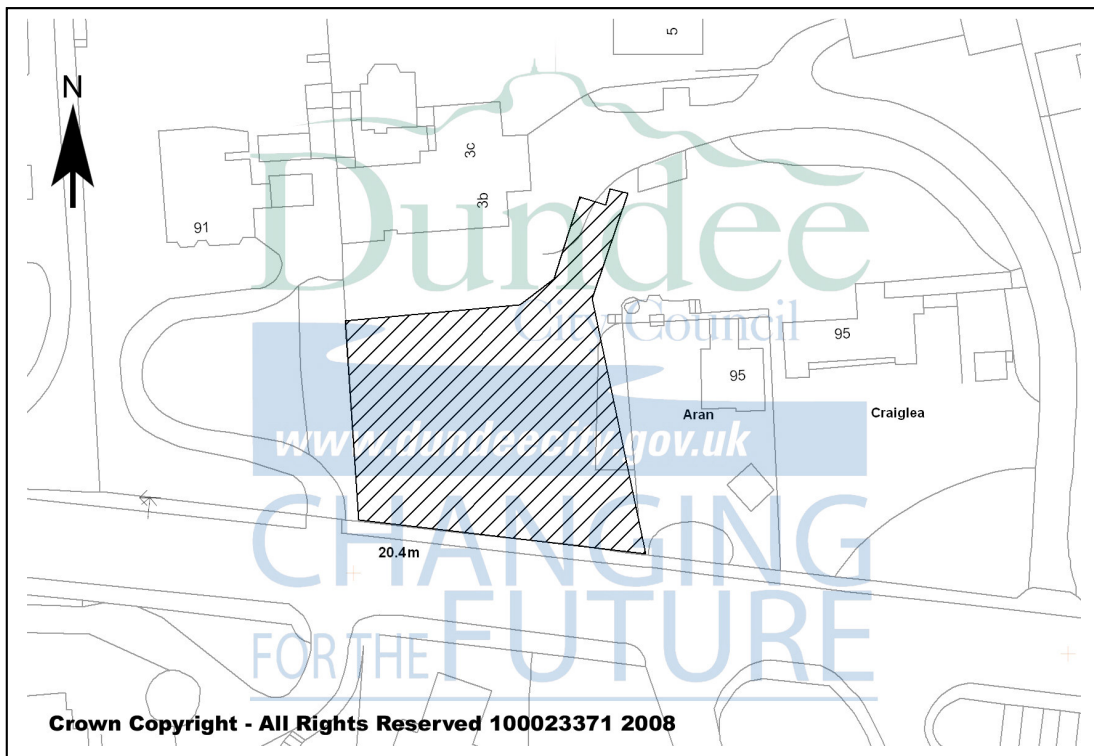


**KEY INFORMATION**

Ward The Ferry

**Proposal**

Construction of eco friendly house

**Address**Land to the South of 97A-D  
Dundee Road  
Broughty Ferry**Applicant**Strathern Homes Ltd  
Unit 36  
34 Mains Loan  
Dundee  
DD4 7BT**Agent**KDM Architects  
15 Camperdown Street  
Broughty Ferry  
Dundee  
DD5 3AA**Registered** 9 June 2008**Case Officer** C Walker

## New House Proposed In Dundee Road

The construction of a new house is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposed development departs from prevailing densities, affects the setting of the original stone villa, does not make adequate provision for the protection of trees and does not indicate how useable garden ground can be provided for the houses currently being developed on the adjoining ground to the north. For the above reasons it is contrary to the Development Plan and fails to preserve the character and appearance of the West Ferry Conservation Area. Therefore, the application is recommended for REFUSAL.

**SUMMARY OF REPORT**

- Planning permission is sought to erect a house in garden ground in front of a detached stone villa at 97 Dundee Road which is currently being converted into 4 houses. The proposed new house sits below the finished floor level of the stone villa and has a single (southerly) aspect with extensive glazing. The site is within the West Ferry Conservation Area and the trees are protected by a TPO.
- Policies 4,15,55,61 and 72 of the Local Plan are relevant to the determination of the application.
- The Community Council has objected to the development due to an inadequate allocation of usable garden ground and an adverse affect on the Conservation Area and the original house.
- The proposed development departs from prevailing densities, affects the setting of the original stone villa, does not make adequate provision for the protection of trees and does not indicate how useable garden ground can be provided for the houses currently being developed on the adjoining ground to the north. For the above reasons it is contrary to the Development Plan and fails to preserve the character and appearance of the West Ferry Conservation Area.

## DESCRIPTION OF PROPOSAL

Planning permission is sought to erect a house in garden ground in front of a subdivided stone villa at 97 Dundee Road. The garden ground is terraced and slopes down to Dundee Road. The proposed house is single storey and cuts into the slope. As a result it sits some 5.7 metres below the finished floor level of the stone villa and has a single (southerly) aspect with extensive glazing on this elevation. The side elevations are formed in stone. It is proposed to form a grass roof on top of the house.

The house occupies an area of some 205m<sup>2</sup> and provides a kitchen, dining area, lounge and 3 bedrooms. It is proposed to provide 2 parking spaces for the new house at the existing driveway and parking area to the east of the villa. Because the site sits well below this area, it is proposed to form a pedestrian pathway with steps down to the house. Pedestrian access is also proposed from Dundee Road where there is an existing gateway.

As well as being some 5.7 metres below the level of the original house, the proposed house is some 10 metres distant from it.

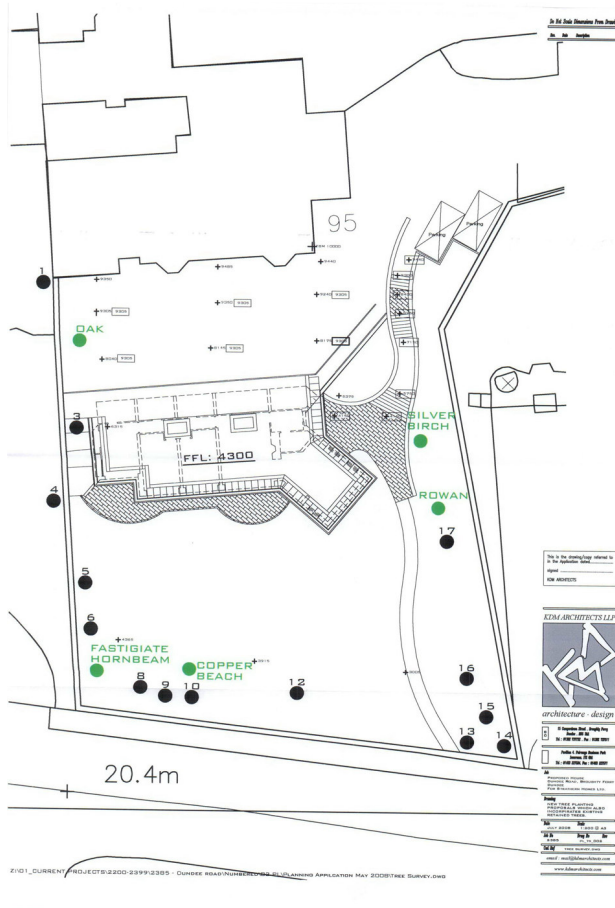
A Tree Survey was submitted with the application suggesting that 3 trees should be removed on the basis of their poor condition and that they and a previously felled diseased elm could be replaced by 5 new trees.

The applicants have submitted a Design Statement with their application. In it they describe the character of the existing built environment and suggest that they are continuing an established tradition of sensitively siting new housing within a mature setting. They describe the proposed dwelling as an "Eco Friendly House" which will have minimal visual impact. As part of their submission they have indicated that the house is "earth sheltered" from its cold northern side, benefits from solar gain, will be well insulated, will use natural materials and provides a grass roof which can be used as a garden and caters for surface water run off. They state that primary heating will be provided by a ground source heat pump. They state that prevailing

densities in the area will be respected and that the house will be a unique example of a well designed sustainable house.

## SITE DESCRIPTION

The site comprises some 1,400m<sup>2</sup> of garden ground to the south of a substantial stone villa set in mature landscaped grounds. This villa to the north of the site is currently being converted to form 4 dwellings.



The site is enclosed by stone boundary walls to the south and west but there are no formal boundaries to the north or east. The trees on the site are mainly located along the boundaries, since a large elm in the centre of the site was felled having contracted Dutch Elm disease.

The vehicular access to the site is from a long private driveway off Dundee Road and there is a second access from Ellislea Road. There is also a pedestrian gateway to Dundee Road. These private vehicular access driveways are approximately 5 metres wide and are shared with 2 modern houses built within the former grounds of the original house as well as the proposed 4 houses being formed within the original villa. A further

house within the grounds, immediately to the east of the application site, has direct access to Dundee Road only.

Although there is a stone boundary and landscaping at Dundee Road, due to its elevated position the original villa and a significant portion of the application site is clearly visible from Dundee Road (although the extent of visibility decreases when the trees come into full leaf).

## 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 site is in an existing housing area and Policy 4 sets out standards for new housing development.

Policy 15 on garden ground development is applicable.

Policy 55 of the Plan emphasizes the importance of design quality in new developments.

The site is also within the West Ferry Conservation Area and Policy 61 requires all development proposals to preserve or enhance the character of the surrounding area.

Policy 72 on trees states that new developments must have regard to existing healthy mature trees and that where appropriate development proposals must be accompanied by a tree planting and landscaping scheme.

## 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

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

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

Planning permission was granted in November 2002 to convert and extend the original villa to form 4 townhouses - application 02/00435/COU refers. This permission is being implemented by the current applicants.

Planning permission was applied for in March 2008 to build a house on this site - application 08/00165/FUL refers. That application was almost identical to the current proposal, the only significant differences being that there was a glass balustrade around the roof garden and the finished floor level was some 0.4 metres higher. The application was withdrawn by the applicants in May 2008 prior to its being determined by Committee.

## PUBLIC PARTICIPATION

Statutory neighbour notification was carried out and the proposed development was advertised as affecting the setting of the conservation area and as contravening the Local Plan. No public comment was received.

## CONSULTATIONS

Broughty Ferry Community Council object to the development on the basis that it would result in an inadequate allocation of usable garden ground for all the dwellings in this area and would adversely affect the Conservation Area and the setting of the original house, particularly from Dundee Road. They also question the eco friendly credentials of the proposed house and have concerns about tree protection and landscaping.

A copy of this letter is available for inspection in the Members Lounges and the points raised are considered in the Observations Section of this Report.

The Council's Forestry Officer has commented on tree protection and new planting on the site. He points out that

the submission does not comply with the requirements of BS 5837:2005.

The Head of Environmental Health and Trading Standards has suggested that as ground source heat pumps are proposed the Council should be informed if any ground contamination is found during construction of the development.

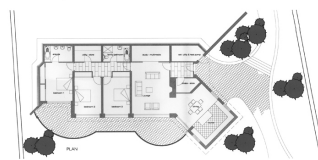
## OBSERVATIONS

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.

Policy 4 sets out standards for new housing development. The application

site is defined as falling within a suburban area and the Appendix 1 standards on house type, car parking, garden space and privacy are satisfied by the proposed development.

Policy 4 (b) states that within established low density residential areas, the density of new development should reflect this and generous space standards will be required. The proposal is within an established low density residential area and as such this matter is considered in more detail under Policy 15(d) of the Plan.

Policy 15 sets out criteria on Garden Ground Development, and those relevant to the current application are as follows:

15(a) requires developments to be of high quality design and use appropriate finishing materials. It is considered that if a house were to be permitted on this site then the approach chosen is the best one in terms of minimising the impact on the original

house. In addition it is considered that good modern design is appropriate on this site.

15(d) - prevailing densities in the area should be respected. In this area the majority of properties are large stone built dwellings set within large gardens with separate garages and parking within the curtilage of each property. It is considered that this proposal does

not respect the prevailing densities within the area. Despite the level difference, the positioning of a new house just 10 metres from the front elevation of the original villa will significantly disrupt the low density character of this area. The further loss of garden ground to make way for new build dwellings is considered to undermine the integrity of the conservation area as well as depart from the original and designed plot layouts whereby large houses were served by

large gardens. The only other buildings in the curtilage of such houses were for purposes ancillary to the main dwelling. Furthermore although it is accepted that infill development has taken place within the grounds of this and other villas in the area, such development has

generally avoided the garden ground in front of the original villas. It is with this in mind that the proposal is not considered to respect the density of development in the area.

15(e) - the proposed new building is directly in front of the main elevation of the original house. The original house is clearly visible from Dundee Road to the South. It is less visible when trees are in full leaf but for most of the year this screening will not be available. In addition, proposals to fell to trees and to prune and crown lift other trees will increase the visibility of the proposed new house. Although the new house is dug into the existing slope it will disrupt views of the original villa from Dundee Road and will detrimentally impact on its setting. In addition the significant changes to ground levels may result in the loss of additional trees and shrubs which would exacerbate the impact of the new house. The proposed new planting is in peripheral areas of the site and will take some time to mature. It has been previously mentioned that where infill development has taken place within the grounds of other houses in the area, this has generally avoided development directly in front of the principal elevation.

15(h) and (i) - The trees on this site are protected by a Tree Preservation Order. Although a tree survey has been submitted, it does not comply with BS5837 and the impact of the significant alterations to ground levels on the trees has not been addressed and an indication of the extent of the canopies of the trees has not been submitted. For example, one of the trees to be retained lies immediately adjacent to the proposed house at a location where ground levels will be significantly altered. In addition the positioning of protective fencing has not been indicated on a plan and the size of the proposed new planting been not been provided.

In terms of Policy 55, for the reasons set out in the assessment of the development against Policy 15(a) of the Plan, it is considered that the design of the development is of an appropriate quality but that there are issues in terms of the impact of the location of the proposed house on the setting of the original villa.

In terms of Policy 61, again for the reasons set out in the assessment of the development against Policy 15 of the

Plan, it is considered that the impact of placing a new house in front of the principal elevation of a stone villa will disrupt views towards the original house from Dundee Road and detract from the appearance of the West Ferry Conservation Area. Furthermore the impact of the development on trees has not been clearly established and any further loss of trees and shrubs within the application site would also detract from the appearance of the Conservation Area.

Policy 72 on trees states that new developments must have regard to existing healthy mature trees and that where appropriate development proposals must be accompanied by a tree planting and landscaping scheme. These issues have been considered in the assessment of the development against Policy 15(h) and (i) of the Plan and it has been concluded that information which has been provided on tree protection and replanting is inadequate.

It is concluded from the foregoing that the proposal does not comply with Policy 4(b) and 15(d) of the adopted Local Plan because the proposed house does not conform to prevailing densities, 15(e) because it is constructed in front of and affecting the setting of the main elevation of the original villa, 15(h) and (i) and 72 because insufficient information on tree protection and details of landscaping have been provided and 61 because the failure to conform with prevailing densities and the adverse impact on the setting of the original villa would also adversely affect the character and appearance of the West Ferry Conservation Area.

### **Other Material Considerations**

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

#### **A - The Statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**

This requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. As explained above in the context of the assessment of the proposal under Policy 61 of the adopted Local Plan, it

is considered that the proposed development would fail to preserve the character and appearance of the West Ferry Conservation Area due to failure to conform to prevailing densities and the adverse impact on the setting of the original villa.

### **B - The Views of Consultees**

Broughty Ferry Community Council object to the development on the basis that it would result in an inadequate allocation of usable garden ground for all the dwellings in this area and would adversely affect the Conservation Area and the setting of the original house, particularly from Dundee Road. They also question the eco friendly credentials of the proposed house and have concerns about tree protection and landscaping.

The concerns about the impact of the development on the setting of the original house and the Conservation Area and on tree protection and landscaping have already been addressed in the assessment of the development against the Local Plan and it has been concluded that there would be an adverse impact.

Concerns about the impact on the gardens of the approved development of 4 dwellings are considered below. Finally concerns about the eco friendly credentials of the proposed house are also considered below.

The concerns of the Councils Forestry Officer have been addressed in the assessment of the development against Policy 15(h) of the Plan and it was concluded that adequate information on the protection of the trees on the site had not been provided.

The concerns of the Head of Environmental Health and Trading Standards about potential ground contamination could be covered by an advice note if Members were minded to grant permission for the development.

### **C - The Relationship with the proposals to convert the original villa to 4 houses**

Planning permission 02/00435/COU to convert and extend the original villa to form 4 townhouses included all of the current application site as garden ground for that development. Condition 3 on the provision of private garden ground for those houses

allocated the site of the current application as garden ground for 2 of those houses. Under Policy 4 of the Local Plan new housing developments in suburban areas should be provided with minimum private gardens of 120m<sup>2</sup>.

The current application site leaves approximately 250m<sup>2</sup> of garden ground in front of the original house. It does not demonstrate how this area might be subdivided between the units but does suggest that the garden ground would be levelled (it is currently steeply sloping). The proposed changes to ground levels may well be problematic in that there is a stone boundary wall and trees and shrubs at the western site boundary and it has not been demonstrated that minimum private useable garden areas could be provided for the houses currently being developed to the north of the application site.

The applicants have written to state that as with the previous application for a house on this site, they will provide over 120m<sup>2</sup> of garden ground for each of the houses to the north. However they have not given any indication on the usability of these areas of garden in terms of ground levels and screening.

### **D - Eco Friendly House**

As part of their submission the applicants have indicated that the house is "earth sheltered" from its cold northern side, benefits from solar gain, will be well insulated, will use natural materials and provides a grass roof which can be used as a garden and caters for surface water run off. They state that primary heating will be provided by a ground source heat pump. Whilst every effort to make new development as sustainable as possible should be encouraged and supported, it is considered that the proposals in this case are not so exceptional that the development could be supported contrary to the provisions of the Local Plan.

It is concluded from the foregoing that insufficient weight can be placed on the material considerations such as to justify the grant of planning permission contrary to the Development Plan.

### **Design**

The proposed house is single storey and cuts into the slope, sitting below

the finished floor level of the stone villa and has a single (southerly) aspect with extensive glazing on this elevation. The side elevations are formed in stone. It is proposed to form a grass roof garden on top of the house.

It is considered that if a house were to be permitted on this site then the approach chosen is the best one in terms of minimising the impact on the original house. In addition it is considered that good modern design is appropriate on this site.

### **CONCLUSION**

The proposed development departs from prevailing densities, affects the setting of the original stone villa, does not make adequate provision for the protection of trees and does not indicate how useable garden ground can be provided for the houses currently being developed on the adjoining ground to the north. For the above reasons it is contrary to the Development Plan and fails to preserve the character and appearance of the West Ferry Conservation Area.

### **RECOMMENDATION**

It is recommended that consent be REFUSED for the following reasons:

#### **Reasons**

- 1 The development does not comply with Policy 4(b) and 15(d) of the adopted Dundee Local Plan Review 2005 because the proposed house does not conform to prevailing densities. There are no material considerations that would justify the approval of this application contrary to the provisions of the Development Plan.
- 2 The proposal does not comply with Policy 15(e) of the adopted Dundee Local Plan Review 2005 because the house is sited in front of and affecting the setting of the main elevation of the original villa. There are no material considerations that would justify the approval of this application contrary to the provisions of the Development Plan.
- 3 The proposal does not comply with Policy 15(h) and Policy 72 of the adopted Dundee Local Plan Review 2005 because

inadequate information on tree protection has been provided for this site where the trees are protected by a Tree Preservation Order. There are no material considerations that would justify the approval of the application contrary to the provisions of the Development Plan.

- 4 The proposed development would have a detrimental impact on the character and appearance of the West Ferry Conservation Area because of the failure to conform with prevailing densities and the adverse impact on the setting of the original villa contrary to Policy 61 of the adopted Dundee Local Plan Review 2005 and the Statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations that would justify the approval of the application contrary to the provisions of the Development Plan.
- 5 The applicants have failed to demonstrate that minimum private useable garden areas in accordance with Policy 4 of the adopted Dundee Local Plan Review 2005 could be provided for the houses currently being developed to the north of the application site.