

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 25 NOVEMBER 2014**

**PLANNING APPLICATION – TOWNHEAD ST ANDREW STREET BRECHIN DD9 6JJ**

**GRID REF: 359576 : 760526**

**REPORT BY HEAD OF PLANNING AND PLACE**

**Abstract:**

This report deals with planning application No. 14/00765/FULL for the proposed erection of a double garage and security gates at Townhead, St Andrew Street, Brechin, DD9 6JJ. This application is recommended for approval.

**1. RECOMMENDATION**

It is recommended that the application be approved for the reason given in Section 10 of this report.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

**3. INTRODUCTION**

3.1 The applicant seeks planning permission for the erection of double garage and security gates at Townhead, St Andrew Street, Brechin, DD9 6JJ ([Plan](#)).

3.2 The application site is the former Townhead Nursery building which benefited from planning permission for a change of use to residential use (ref: 13/00439/FULL refers). The site is located to the north west of Brechin town centre within a predominantly residential area. Townhead occupies an extensive plot located in the north most section of St Andrew Street to the north of Maisondieu Primary School and approximately 100 metres south of the junction of St Andrew Street and Latch Road.

3.3 The application proposes the erection of a single storey double garage measuring in the region of 7 x 6 metres and 4.5 metres in height. The garage would have a pitched roof finished in slate and dry dash rendered walls. In addition the application seeks retrospective planning permission for the erection of two metre high wrought Iron gates.

3.4 The proposal has been advertised in the press as required by legislation. The application has not been subject of variation.

3.5 This application requires to be determined by the Development Standards Committee as it is recommended for approval and has attracted an objection from a statutory consultee – in this instance the Community Council.

**4. RELEVANT PLANNING HISTORY**

There have been a number of applications relating to the site over a period of years. Planning application ref. 13/00439/FULL for change of use from a Class 10 non-residential to a Class 9 dwelling house was approved on 16 July 2013.

## 5. APPLICANT'S CASE

Supporting information has been submitted in the form of a letter, photographs and Title Plans which can be summarised as follows:-

- the photographs show the gates in place at the application property and examples of gates found bounding properties in the immediate area (neighbouring primary school and bowling club);
- the information held by the Registers of Scotland relating to the neighbouring property 22 St Andrew Street. The plans accompanying the information indicate that the properties Townhead and 22 St Andrew Street share an access from St Andrew Street to the point at which the gates have been erected.

## 6. CONSULTATIONS

6.1 **The Roads Service** - has no objections.

6.2 **Scottish Water** - there was no response from this consultee at the time of report preparation.

6.3 **Community Council** - this consultee objects to the application on the basis of its impact on an alleged public right of way.

## 7. LETTERS OF REPRESENTATION

One representation has been received in respect of the application which objects to the proposal. The correspondence will be circulated to Members of the Development Standards Committee and copies will be available to view in the local library and on the Council's Public Access website. -

The main points of concern are as follows:

- **Concern that a public right of way runs through the site and would be blocked by the development** - This issue is discussed further in Section 8: Planning Considerations.

## 8. PLANNING CONSIDERATIONS

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

8.2 As the application for planning permission also relates to subjects within the curtilage of a listed building, Section 59 (1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the planning authority, in assessing planning applications to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

8.3 In this case the development plan comprises:-

- TAYplan (Approved 2012)
- Angus Local Plan Review (Adopted 2009)

The application is not strategically significant and therefore the policies of TAYplan are not referenced. The relevant policies of the Angus Local Plan Review are reproduced at Appendix 1 to this report.

8.4 As indicated above this application relates to the formation of a single storey double garage and retrospective planning permission for the erection of wrought Iron gates. Accordingly the key issues in relation to this application are whether the proposed development accords with relevant Local Plan policies and whether there are any material considerations to be taken into account.

8.5 The policy tests set out under SC15 relate to house extensions, however, whilst the proposals the subject of this application are a garage and gates, their proposed location within the

curtilage of the application property make the tests set out under SC15 relevant in this instance. The first test of Policy SC15 relates to the impact of the proposals on the character and appearance of the property and wider area. The application property is a C listed building located within a predominantly residential area. The garage proposed would be formed to the side/rear of the dwelling in materials and colours to match the existing dwelling. The gates proposed are similar in form and appearance to those found in the surrounding area and are considered acceptable for this listed building. Therefore, the proposals are considered acceptable in terms of their impact on the character and appearance of the property and wider area. In meeting the terms of this criterion of Policy SC15 the proposals are also considered to comply with Policy S3. In addition, it is considered that the proposals will not adversely impact on the setting of this listed building and would therefore not raise any issues in respect of Policy ER16 of the ALPR.

- 8.6 The proposed garage and gates will not introduce any significant or unacceptable new issues in terms of residential privacy and amenity; do not reduce the level of garden ground to an unacceptable level; and do not give rise to any significant issues in terms of parking or access. As indicated above the Roads Service has confirmed no objection to the proposals. Any issues regarding the erection of gates on a mutual private access are a civil matter for the parties concerned. On this basis the proposal does not give rise to any significant issues in terms of Policy SC15 or with Policy S6 and the associated Schedule 1 Development Principles in so far as it relates to amenity and roads/parking/access.
- 8.7 Concern has been noted from one objector and the Community Council in respect of impact on an alleged right of way through the site. Policy SC36 relates to development proposals, which will result in a significant loss to the public of linear access, area access or access to inland water and states that such development will be resisted. The text accompanying this policy defines linear access as access along paths and tracks including core paths and public rights of way. The concerns raised relate to impact on an informal path that has previously been used between Latch Road and St Andrew Street. The Council has no record of the existence of a public right of way across the site between the two roadways stated and there is no core path. Access was gained to the rear of the former Townhead nursery building from Latch Road in the past when the building was in use as a nursery school and the Council sought to safeguard that access in considering other development proposals in the area. However, the nursery school has now closed and the land and buildings have been sold by the Council. Whilst access may have been taken through the grounds of the nursery in the past, such use is not considered to have established a public right of way. As the building is now in use as a private dwelling it is not considered appropriate to require the retention of a footpath connection through its curtilage.
- 8.8 In conclusion, the proposal will provide for the erection of a garage and gates in a manner that will not give rise to any significant adverse impacts on the amenity or appearance of the area. Whilst I note the concerns raised in the submitted representation and consultation response, these do not give rise to issues that would justify refusal of the application. In this case the proposal complies with development plan policy and there are no material considerations that justify refusal of the application contrary to the provisions of the development plan.

## **9. OTHER IMPLICATIONS**

### **HUMAN RIGHTS IMPLICATIONS**

The recommendation in this report for grant of planning permission has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified.

### **EQUALITIES IMPLICATIONS**

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

## **10. CONCLUSION**

It is recommended that the application be approved for the following reason:

**Reason(s) for Approval:**

That the application will provide for the erection of a garage and gates in a manner that complies with relevant policies of the development plan and there are no material considerations that justify refusal of the planning application contrary to the provisions of the development plan.

**NOTE:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

P&P/IM/DB

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Date: 14.11.2014

## DEVELOPMENT PLAN POLICIES AGAINST WHICH THE PROPOSAL HAS BEEN ASSESSED

### Angus Local Plan Review 2009

#### **Policy S1 : Development Boundaries**

(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.

(b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.

(c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

#### **Policy S3 : Design Quality**

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:-

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;
- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

#### **Policy S6 : Development Principles (Schedule 1)**

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

##### Schedule 1 : Development Principles

###### Amenity

(a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.

(b) Proposals should not result in unacceptable visual impact.

(c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31).

###### Roads/Parking/Access

(d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.

(e) Access to housing in rural areas should not go through a farm court.

(f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17 : Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.

(g) Development should not result in the loss of public access rights. (Policy SC36)

#### Landscaping / Open Space / Biodiversity

- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5)
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33.

#### Drainage and Flood Risk

- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22)
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.
- (o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28)
- (p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23).
- (q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38)
- (r) Development should minimise waste by design and during construction.

#### Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following: Air Quality Assessment; Archaeological Assessment; Contaminated Land Assessment; Design Statement; Drainage Impact Assessment; Environmental Statement; Flood Risk Assessment; Landscape Assessment and/or Landscaping Scheme; Noise Impact Assessment; Retail Impact Assessment; Transport Assessment.

#### **Policy SC15 : House Extensions**

Development proposals for extensions to existing dwellings will be permitted except where the extension would:

- adversely affect the appearance and character of the dwelling and/or the surrounding area. Alterations and extensions should respect the design, massing, proportions, materials and general visual appearance of the area;
- have a significant and unacceptable detrimental effect on the residential amenity enjoyed by adjoining households;
- reduce the provision of private garden ground to an unacceptable level;
- result in inadequate off-street parking provision and/or access to the property.

#### **Policy SC36 : Access Rights**

Development proposals, which will result in a significant loss to the public of linear access, area access or access to inland water will be resisted.

#### **Policy ER16 : Development Affecting the Setting of a Listed Building**

Development proposals will only be permitted where they do not adversely affect the setting of a listed building. New development should avoid building in front of important elevations, felling mature trees and breaching boundary walls.