

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 6 JANUARY 2015**

**PLANNING APPLICATION – FONTSTANE HOUSE 9 ALBERT STREET MONIFIETH  
DUNDEE DD5 4JS**

**Grid Ref: 349134 : 732490**

**REPORT BY HEAD OF PLANNING AND PLACE**

**Abstract:**

This report deals with planning application No 14/00896/PPPL for Planning Permission in Principle for Erection of Dwellinghouse for Mr & Mrs Philip & Shona Leckie at Fontstane House, 9 Albert Street, Monifieth, Dundee. This application is recommended for conditional approval.

**1. RECOMMENDATION**

It is recommended that the application be approved for the reason(s) and subject to the condition(s) 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 in principle for the erection of a dwellinghouse at Fontstane House, 9 Albert Street, Monifieth, Dundee.

3.2 The application site which measures 760 square metres forms part of the garden ground of 9 Albert Street. The application site is bound to the north east by 8 Queen Street; to the south east by 11 Queen Street; to the south west by residential properties in Fontstane Road and the garden of 9 Albert Street and to the north west by 9 Albert Street. The north east and south east boundaries of the site consist of wire mesh fencing that is complemented by boundary hedging. The north west and south west boundaries are undefined. The existing property is accessed by a driveway that measures some 125 metres from Albert Street. The application site contains 17 trees 14 of which have been planted between 2012 and 2013.

3.3 The application seeks planning permission in principle for the erection of a dwellinghouse with the application form indicating a two storey dwellinghouse is proposed at the site. No details are provided showing elevations but an indicative house position is illustrated. The vehicular access to the site would be located at the south west boundary of the application site and link into the existing driveway access serving 9 Albert Street.

3.4 The application has not been subject of variation.

3.5 This application requires to be determined by the Development Standards Committee due to the recommendation of the application for approval whilst being subject to five objections; therefore it cannot be determined under the Head of Planning and Place's delegated powers.

#### 4. RELEVANT PLANNING HISTORY

There is no planning history that has any bearing on the determination of this application.

#### 5. APPLICANT'S CASE

A **Tree Survey** which indicates that there are 17 existing trees within the application site. The species include Oak, Silver Birch, Poplar, Sycamore, Hornbeam, Apple, Rowan, Horse Chestnut, Cherry, Crab Apple, Japanese Cherry and Whitebeam. 14 of the 17 trees were planted between 2012 and 2013 as replacement planting to compensate for the loss of mature trees which were removed. The survey notes that the mature Sycamore tree within the site is identified as being 'not in good condition'.

#### 6. CONSULTATIONS

6.1 The Roads Service has not objected to the proposal in respect of traffic safety.

6.2 Scottish Water has indicated no objections to the proposal.

6.3 Aberdeenshire Council Archaeological Service provides advice to Angus Council on archaeology as part of a Service Level Agreement and has indicated no archaeological mitigation is required in relation to the proposed development.

6.4 No comments have been received from the Community Council.

6.5 The Education Service has been consulted on the application in respect of school capacity and has indicated no objection to the proposal.

#### 7. LETTERS OF REPRESENTATION

7.1 Eight (8) letters of representation have been received from five (5) properties. All of the submitted letters object to the proposal. The letters of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view in the local library or on the council's Public Access website. The main issue raised relate to:

- **Adverse impact on residential amenity and loss of privacy** – the issues of design and external appearance would be considered as part of any subsequent Matters Specified in Conditions application however I will discuss these matters under Section 8, Planning Considerations below.
- **Unacceptable visual impacts and compatibility with the existing streetscene** – as indicated above the issues of design and external appearance would be considered as part of any subsequent Matters Specified in Conditions application however I will discuss these matters under Section 8, Planning Considerations below.
- **Adverse impacts on road traffic and pedestrian safety** – these matters are discussed under Section 8, Planning Considerations below.
- **Loss of trees** – this matter is discussed under Section 8, Planning Considerations below.
- **Detrimental impact on wildlife within Fontstane Wood (birds, squirrels, bats)** – the proposal does not include any development within Fontstane Wood and I have no reason to consider that the proposal would have any impact on wildlife within the adjacent woodland. There are no designations within the application site and the majority of the trees within the application site were only planted between 2012 and 2013 therefore it is unlikely that the loss of these trees would have an unacceptable impact on wildlife in the area.
- **Damage to the driveway access and adjacent boundary walls during construction** – there are no construction works proposed in the vicinity of the driveway and adjacent

boundary walls. Any damaged caused during the construction process would be a civil matter between the parties involved and is not a material planning consideration.

- **Planning permission has previously been refused for housing in this area** – Angus Council has no record of any planning applications at 9 Albert Street. The applicant who occupied the property since 1989 has confirmed that they have never applied for housing within the grounds of the property since they have occupied it. Notwithstanding this the application falls to be considered against current development plan policies and other material planning considerations. The acceptability of this application is assessed below.
- **Creation of a precedent** – every application is considered on its own merits against relevant development plan policies and other material planning considerations. The acceptability of this application is assessed below.
- **Increased noise and nuisance** – I do not consider that the noise or inconvenience associated with works to construct a single house would be so great as to merit refusal of this application. It is not uncommon for development works to take place within settlements.

## 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 In this case the development plan comprises:-
- TAYplan (Approved 2012)
  - Angus local Plan Review (Adopted 2009)
- 8.3 As the application is not of strategic importance the policies of TAYplan are not referred to in this report and the policies of the Angus Local Plan Review form the main basis for the consideration of the proposal. The relevant local plan policies are reproduced at Appendix 1.
- 8.4 Angus Council is progressing with preparation of a Local Development Plan to provide up to date Development Plan coverage for Angus. When adopted, the Angus Local Development Plan (ALDP) will replace the current adopted Angus Local Plan Review (ALPR). The Draft Proposed Angus Local Development Plan was considered by Angus Council at its meeting on 11 December with a view to it being approved and published as the Proposed ALDP for a statutory period for representations. The Draft Proposed ALDP sets out policies and proposals for the 2016-2026 period consistent with the strategic framework provided by the approved TAYplan SDP (June 2012) and Scottish Planning Policy (SPP) published in June 2014. The Proposed ALDP, as approved by Angus Council, will be subject to a 9 week period for representation commencing in February 2015. Any unresolved representations received during this statutory consultation period are likely to be considered at an Examination by an independent Reporter appointed by Scottish Ministers. The Council must accept the conclusions and recommendations of the Reporter before proceeding to adopt the plan. Only in exceptional circumstances can the Council choose not to do this. The Proposed ALDP represents Angus Council's settled view in relation to the appropriate use of land within the Council area. As such, it will be a material consideration in the determination of planning applications. The Proposed ALDP is, however, at a stage in the statutory process of preparation where it may be subject to further modification. Limited weight can therefore currently be attached to its contents. This may change following the period of representation when the level and significance of any objection to policies and proposals of the plan will be known.
- 8.5 The application site is not specifically allocated for development in the local plan but lies within the Development Boundary of Monifieth and as such is assessed under the terms of Policy S1 criterion (a). This Policy indicates that 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.

- 8.6 In terms of the type of development proposed, the most relevant local plan policy is Policy SC2 which deals specifically with housing proposals on small housing sites (less than 5 dwellings). This policy is criteria based and proposals must be assessed against all relevant criteria which requires the provision of a satisfactory residential environment taking account of land use compatibility, plot size, provision of adequate private amenity space and the maintenance of the privacy and amenity of adjoining housing.
- 8.7 The proposal seeks permission in principle for the erection of one dwellinghouse within the garden ground of 9 Albert Street. The proposed development is considered to be compatible with the surrounding land uses which consist of housing to the north, east, south and west. The proposal is therefore consistent with the first criterion of Policy SC2. The second criterion of Policy SC2 relates to plot sizes stating that sites should be compatible with those in the general area. The application plot measures 760 square metres. The area surrounding the proposed plot is characterised by different plot sizes, with higher density suburban housing on Fonstane Road (west) and Grangehill Drive (north) and lower density housing to the immediate south and east. The size of the proposed plot would be adequate and would provide a dwelling on a relatively low density site. In terms of the provision of amenity space, there would be well in excess of 100 square metres of garden ground which is acceptable. The existing Fontstane House would retain a plot of approximately 2200 square metres and a private garden area in excess of 1000 square metres. Again this is compatible with those in the surrounding area.
- 8.8 Objections have been received raising concerns regarding the siting and design of a dwellinghouse and its potential impacts on residential amenity, noting that the application form indicates the applicant is seeking a two storey dwellinghouse. The issues of design and external appearance would be considered as part of any subsequent Matters Specified in Conditions application and the position of the house shown on the submitted plans is being considered as indicative only at the permission in principle stage. Notwithstanding that, there are no issues that lead me to conclude that a two storey house of an appropriate design and external appearance could not be accommodated on the site. The neighbouring houses to the north east and south east are located in excess of 20 metres from the boundaries of the application site and the indicative layout shows that residential properties to the south west on Fontstane Road could also be located in excess of 20 metres from the proposed dwellinghouse, therefore it is likely that a two storey dwellinghouse could be accommodated on the site bearing in mind existing boundary enclosures, existing window positions and window to window distances as specified in Advice Note 14. Policy SC2 also requires that proposals take account of the provisions of Policy S6.
- 8.9 Only certain criteria from Policy S6 are relevant in the determination of this application. Criterion (a) relating to amenity has been considered in the context of Policy SC2 and I have concluded that a house could be accommodated without an unacceptable impact on the amenity of neighbouring property. In respect of criterion (b) the visual impact of a dwellinghouse would be considered in the context of a detailed submission. In respect of roads/parking/access the Roads Service has considered the application in terms of the traffic likely to be generated by it and its impact on the public road network and has indicated that it has no objections to the proposed development criterion (d). The impact of the proposal on trees and the landscaping arrangements are discussed under policies ER6 and ER7 below. The application form indicates that the proposed house would be connected to the public sewer and that surface water would be dealt with by a sustainable drainage scheme and this information would be reserved as a matter for a future detailed application (m & n). The proposal does not give rise to any issues in terms of the remaining criteria.
- 8.10 Policies ER6 and ER7 require an assessment of the impact of a proposal on trees, woodlands and hedgerows. The applicant has indicated there are 17 existing trees within the application site. The species include Oak, Silver Birch, Poplar, Sycamore, Hornbeam, Apple, Rowan, Horse Chestnut, Cherry, Crab Apple, Japanese Cherry and Whitebeam. The Planning Service has previously given consent for the felling of a number of mature trees within the application site dating back to 2003 and 14 of the 17 trees were planted between 2012 and 2013 as replacement planting to compensate for the felling of mature trees. The majority trees are relatively juvenile and could potentially be relocated elsewhere within the site. It is noted that the mature Sycamore tree within the site is identified as being 'not in good condition' and in the long term it may not be viable for retention. I therefore have no objections to its removal as part of the development proposal but full landscaping details would be required through a subsequent detailed application. The letters of objection raise concerns regarding the impact of the proposal on trees within the site and in Fontstane Wood to the north of (and outside of)

the site which is protected by a Tree Preservation Order. Fontstane Wood contributes to the landscape setting of this area of Monifieth whereas the trees within the application site make a relatively minor contribution to the landscape setting of the wider area. Although trees would have to be felled within the application site to accommodate the proposed house I do not consider those trees which are worthy of retention to have sufficient biodiversity or amenity value to justify refusal of planning permission. A condition requiring submission of further landscaping plans and particulars as part of any subsequent Matters Specified in Conditions application is proposed and I consider that the proposal meets the spirit of policies ER6 or ER7.

- 8.11 As the proposal complies with other relevant policies of the local plan it is also considered to be compatible with Policy S1 criterion (a). In conclusion, I consider the proposed house could be accommodated without unacceptably impacting on neighbouring property or the character of the surrounding area. The application is consistent with the provisions of the development plan and there are no material considerations that justify refusal of planning permission.

## **9. OTHER MATTERS**

### **HUMAN RIGHTS IMPLICATIONS**

The recommendation in this report for grant of planning permission, subject to conditions, 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. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

### **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(s) and subject to the following condition(s).

### **Reason(s) for Approval:**

The application complies with the relevant provisions of the development plan and will not have a significant adverse impact on the amenity or character of the surrounding area. There are no material considerations which justify refusal of the application.

### **Conditions:**

1. That plans and particulars of the matters listed below shall be submitted for consideration by the planning authority. No work shall begin until the written approval of the authority has been given and the development shall be carried out in accordance with that approval. The matters are:
  - the siting of the building(s);
  - the design and external appearance of the building(s);
  - the means of drainage for the development. For the avoidance of doubt the foul drainage from the house shall be directed to the public sewage system and surface water shall be directed to a Sustainable Urban Drainage System;
  - a scheme for the landscaping of the site. The scheme shall include an indication of all existing trees and hedgerows on the site, those to be retained, removed and/or relocated within the site as well as new planting arrangements;
  - the existing and proposed ground levels and floor levels relative to a fixed ordnance datum;

- the layout of the site, including car parking, turning space and the means of site enclosure. For the avoidance of doubt, the indicative layout submitted is not approved.

*Reason: to ensure that the matters referred to are given full consideration and to accord with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.*

2. That from the date of this permission none of the trees identified on James R Culloch drawing 0487/02 'proposed site plan' dated October 2014 shall be lopped, topped or felled without the prior written consent of the planning authority.

*Reason: in order that the planning authority may consider any proposals for the removal of trees in the interests of the amenity of the area.*

**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/RK

E-Mail: [Planning@angus.gov.uk](mailto:Planning@angus.gov.uk)

Date: 15.12.14

#### **Appendix 1: Relevant Development Plan Policies**

## Appendix 1: Relevant Development Plan Policies

### ANGUS LOCAL PLAN REVIEW

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

##### 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 S6: Development Principles

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 SC2: Small Sites**

Proposals for residential development on small sites of less than 5 dwellings within development boundaries should provide a satisfactory residential environment taking account of the following:-

- compatibility with established and proposed land uses in the surrounding area;
- plot sizes compatible with those in the area;
- provision of at least 100m<sup>2</sup> private garden ground ; and
- maintenance of residential amenity and privacy of adjoining housing.

Proposals will also be required to take account of the provisions of Policy S6 : Development Principles.

#### **Policy ER6: Trees, Woodlands and Hedgerows**

Trees, woodlands and hedgerows which have a landscape, amenity and/or nature conservation value will be protected from development. Development that would result in the loss of or damage to ancient or semi-natural woodlands will not be permitted. Tree Preservation Orders will be promoted to protect groups of trees or individual significant trees of importance to the amenity of a surrounding area where such trees and woodland are under threat. Management Agreements will be introduced, where appropriate, to ensure the establishment of new and replacement planting. Tree planting initiatives such as Community Woodland proposals and other amenity planting will continue to be supported and encouraged.

#### **Policy ER7: Trees on Development Sites**

Planning applications for development proposals affecting sites where existing trees and hedges occur and are considered by Angus Council to be of particular importance will normally be required to:

- (a) provide a full tree survey in order to identify the condition of those trees on site;
- (b) where possible retain, protect and incorporate existing trees, hedges, and treelines within the design and layout;
- (c) include appropriate new woodland and or tree planting within the development proposals to create diversity and additional screening, including preserving existing treelines, planting hedgerow trees or gapping up/ enhancing existing treelines.