

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

18 OCTOBER 2001

PLANNING APPLICATION – 11 GARDYNE STREET, LETHAM

REPORT BY THE DIRECTOR OF PLANNING AND TRANSPORT

**Abstract: This report deals with planning application No. 01/00788/FUL for the demolition of existing house and erection of dwellinghouse and garage for B. Litterick at 11 Gardyne Street, Letham. This application is recommended for approval.**

**1 INTRODUCTION**

- 1.1 Full planning permission is sought for the demolition of the existing house and the erection of a new house and garage at 11 Gardyne Street, Letham.
- 1.2 A previous application for a similar development was withdrawn, following problems with the definition of the site boundary within the applicant's ownership.
- 1.3 The site occupies a corner position at the junction of Gardyne Street with Dundee Road. The existing property fronts onto Gardyne Street behind a narrow paved area and the southern gable forms the boundary with the adjacent property to the south. A boundary wall encloses the remainder of the site with an existing access onto Gardyne Street. To the west of the site is garden ground and to the south a residential property. The current house is single storey of traditional style constructed in a mix of stone, brick and slate with a series of outbuildings to the rear and no dormers or rooflights. It is in poor condition clearly lacking any maintenance.
- 1.4 The proposed dwellinghouse is for a single storey house with dormer windows and rooflights to utilise the upper storey. The proposed house is positioned fronting onto Gardyne Street but the south gable of the proposed property has been moved one metre away from the proposed south boundary and extends approximately one metre further to the north. The proposed depth of the house has increased from the existing 5.7 metres to 8.3 metres and since the roof pitch is to remain at 40 degrees this will mean the increased height of the house by approximately two metres. It is proposed to reuse the existing slate and render the walls. The design of the front elevation utilises traditional forms such as the solid to void relationships, dormers, window proportions. The rear elevation will be visible from a public vantage point at first floor and the central section of the roof is proposed to be catslide/mono pitch dormer with traditional pitched dormers towards the two gables,
- 1.5 The proposed garage is of double size to the north of the proposed house constructed of render walls and a slate roof to the front elevation and grey sheeting to the rear.
- 1.6 The garden ground that will remain is small but will be similar to the size of the existing once the outbuildings/shed have been removed. The boundary to the site is to remain as existing with the existing south gable of the house being reduced and retained at the height of the existing boundary wall to form the new boundary.

## **2 APPLICANT'S CASE**

- 2.1 The applicant has made a number of amendments including removing a window from the south gable to prevent direct overlooking. A number of details such as boundary treatments have also been clarified.

## **3 CONSULTATIONS**

- 3.1 No adverse comments have been received.

## **4 LETTERS OF REPRESENTATION**

- 4.1 Three letters have been received from the same individual objecting to the proposal and these are attached to this report. Some of the matters raised have been addressed by the applicant through the submission of amended plans but the main areas of concern that remain are:-

- loss of light to the rear lounge window;
- loss of privacy to the house and garden;
- lack of details on boundary treatment to the south once the existing building is demolished and its stability;
- the house is out of character with the surrounding area;
- the potential encroachment of the applicant onto the neighbour's property.

- 4.2 The details of the boundary treatment have been clarified by the applicant and detailed above and the stability issue would be the subject of the Building Regulations. The issue of potential encroachment is a private matter between the owners and outside the scope of planning control. The rest of these issues will be dealt with under Planning Considerations.

## **5 PLANNING CONSIDERATIONS**

- 5.1 The determining issues in this case are whether the proposal complies with:-

- Local Plan policy;
- would detract from the character or amenity of the area;
- would have an unacceptable impact on surrounding occupiers.

- 5.2 The Angus Local Plan includes Policy ENV5 : Development in Existing Built-up Areas which states:-

“Within defined development boundaries planning applications for new development on sites not identified on the inset Proposals Maps will only be permitted where the proposals accord with the Development Strategy and other policies of the Local Plan. Proposals leading to significant loss of amenity and character of the surrounding area will not be permitted.”

- 5.3 To ensure that existing residential property and developed areas are protected from development which would adversely affect their character and amenity value the Angus Local Plan includes Policy H21 : Residential Character and Amenity:-
- “Development proposals which have a significant adverse affect on the character and amenity value of existing housing will be resisted. Applications will only be acceptable where they are compatible with established housing use.”
- 5.4 It is also appropriate to consider this proposal against Policy H6 : Small Housing Sites bearing in mind the existing house on the site and the existing level of residential amenity enjoyed. This policy draws attention to maintaining residential amenity and privacy of the adjoining housing and these are the remaining areas of concern of the objector. Advice Note 14 : Single Plot Residential Development sets out the standards the Council will expect to be met in respect of overlooking and privacy. The objector’s property is orientated north/south with the front facing south. It has garden areas to the south, west and north the latter being at the rear of the application site. The proposed house is orientated east/west and therefore at 90 degrees to the adjacent property. The current property has no windows at first floor and the objector is concerned that the proposed dormers to the rear will overlook both his garden and invade the privacy of his house. The applicant has been requested to consider a rooflight as an alternative to the proposed rear southernmost dormer, i.e. the one closest to the neighbour but has declined to amend the proposal further having already deleted a gable window as he feels this would not leave in sufficient space in the bedroom. The overlooking of the neighbour’s house occurs from this one window and is at an acute angle horizontally which when compounded with acute angle vertically creates a minimal potential for loss of privacy. The objector’s garden to the rear of the site (which once formed part of the application curtilage) is within approximately eight metres of the proposed house whilst there is currently a high boundary wall it is likely that the proposed first floor windows will overlook this space. This garden area forms only one section of the whole and in an area which is as built up as this I do not consider this is at an unreasonable level. Indeed Advice Note 14 identifies window to window privacy as the main consideration and makes no recommendations in respect of overlooking gardens. Indeed Advice Note 19 on House Extensions accepts that few gardens have no overlooking and therefore accords no importance to such protection.
- 5.5 With respect to the potential loss of light which will be experienced by the objector. The proposed house is greater in volume and height than the existing property and by its nature this will mean that a portion of what was daylight will be building but the property does not overlap with the window position of the neighbouring house and I do not consider this would be substantially injurious to the residential amenity of the neighbour. The window in question is not the only source of light to that room.
- 5.6 The style and materials of the proposed house is in keeping with the mix character of the built forms in the rest of Letham and I do not consider it out of place. The site is currently occupied by a house (in poor condition) and some environmental enhancement should result in permitting its redevelopment. As it is an existing site then it would, in any case, be reasonable to apply some flexibility to the requirements demanded of a completely new house plot development. Under these circumstances there is no justification to warrant a refusal or, indeed, to demand further amendments to the already amended plans.

## **6 HUMAN RIGHTS IMPLICATIONS**

- 6.1 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. Any actual or alleged infringement of neighbours' rights to peaceful enjoyment of their property and/or interference with their privacy/home/family life arising from grant of this application is in accordance with the Council's legal duties under the Planning Acts to determine planning applications such as the present one and the grant of planning permission is justified and necessary in the public interest on the basis that any such actual or alleged infringement is not significant or material as balanced against the applicant's freedom to carry out reasonable development and/or activities over his property as supported by the Development Plan, and other material considerations which, as referred to in the report, are supportive of the proposed development. 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.

## **7 RECOMMENDATION**

- 7.1 It is recommended that the application be approved with conditions.
1. That the external wall finishes be agreed in consultation with and be to the satisfaction of the Director of Planning & Transport prior to the commencement of work.
  2. That the precise details of the boundary wall to be formed out of the south gable of the existing house which shall include a coping to match the existing boundary wall be agreed in writing with the Director of Planning & Transport and be implemented prior to the occupation of the house.

### **Reasons:**

1. In order that the Council may verify the acceptability of the proposals on amenity grounds.
2. In order that the Council may verify the acceptability of the proposals on amenity grounds.

### **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.

AA/AS/IAL  
10 October 2001

Alex Anderson  
Director of Planning and Transport