

Appeal Decision Notice

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Decision by John H Martin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-100-2056
- Site address: Land to rear of 4 Westfield Terrace, Aberdeen AB25 2RU
- Appeal by Mr & Mrs Tom Mason against the decision by Aberdeen City Council
- Application for planning permission Ref:P13177 dated 13 December 2013 refused by notice dated 10 June 2014
- The development proposed: erection of a 2 storey dwellinghouse within garden ground and alterations to boundary wall
- Application drawings: 1:1000 Location Plan; Drgs.Nos.3788/s01; 100A; 101A; 102A; 103A; 104A; 105A & 106
- Date of site visit by Reporter: 7 October 2014

Date of appeal decision: 29 October 2014

Decision

I allow the appeal and grant planning permission subject to the 9 conditions listed at the end of the decision notice. Attention is also drawn to the 3 advisory notes at the end of the notice.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. As required by section 64 (1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997, I shall also pay special attention to the desirability of the preserving or enhancing the character or appearance of the conservation area. The development plan is the Aberdeen Local Development Plan (ADLP) and, in the reasons for refusal, the council refer to policy H1 (Residential Areas) and policy NE5 (Trees and Woodland). I shall also have regard to policies D1, D2, D4 and D5 on architecture, design and built heritage and to the council's supplementary guidance (SPG) on Sub-division and Redevelopment of Residential Curtilages.

2. Having regard to the provisions of the development plan the main issues in this appeal are: (1) the effect of the proposed dwellinghouse on the character of the surrounding



area; (2) whether or not the proposal would preserve or enhance the character or appearance of the conservation area and; (3) the impact of the loss of trees on the character and amenity of the area.

3. The appeal site of some 0.036 hectares comprises a triangular area of garden ground to the rear of 4 Westfield Terrace and at a higher level by about 1.5 metres, and is enclosed by 1.8 - 2.2 metre high stone walls on the north-east and north west boundaries, and by a stone retaining wall and garage along the south east boundary. Historically, the plot was residual land following the realignment of Craigie Loanings in 1907 and is ancillary to the main garden of 4 Westfield Terrace, by which it differs from the other properties in the terrace. The land is uncultivated with shrubs and mainly deciduous trees, some of which are quite mature. There is evidence of blocked up openings in the boundary walls fronting Craigie Loanings and the private driveway from Craigie Park Place.

4. The north-west side of Westfield Terrace comprises 8 detached and semi-detached late 19th century houses set well back in generous landscaped gardens with mature trees, that together make a valuable contribution to the character of this part of the Westburn and Rosemount Conservation Area. However, the appeal site fronts Craigie Loanings, where the character is defined by the 3 storey granite terraced houses and tenements in the streets off the northeast side of the road. There is little development on the appeal site side of the street, except for a recent bungalow on an infill plot at No.1 and the modern 2 and 3 storey flats adjacent to the appeal site to the north.

1st issue

5. The proposal is to erect a 2 storey, 3 bedroom modern detached house facing Craigie Loanings, from which a pedestrian access is to be taken, with vehicular access off the private drive from Craigie Park Place. These accesses would be replacing historic openings in the walls and would be completed using local granite piers in keeping with the character of the area.

6. The new dwelling would be placed on the widest part of the site where it would not be apparent from Westfield Terrace, except to the occupiers of Nos. 2 and 4 from the back of their properties. As a result, the proposal would not be related to the generous layout of Westfield Terrace but more closely to the higher density of Craigie Loanings against which its effect on the surrounding area should be judged.

7. As the site lies within an established residential area, ADLP policy H1 would allow residential development subject to its criteria and the advice in the SPG. Firstly, this infill plot fronts Craigie Loanings where the prevalent density is much higher than Westfield Terrace from which it would be screened by the appellant's present house. It is a windfall site of a size comparable with those in Wallfield Place opposite and is larger than the infill plot at 1 Craigie Loanings. It would also have a site coverage of 27% which compares favourably with the 33% maximum density in paragraph 5.2 of the SPG, so I find that the proposal would not amount to over-development.

8. Secondly, although contemporary in style, the proposed dwelling has been carefully designed to reflect the granite and slate character of the area to accord with ADLP policy D1. To minimise any risks of overlooking or loss of privacy in adjoining properties, the new house is to be set at right angles to the adjacent 2 storey flats with no openings on that side and new trees planted amongst the existing shrubs in the verge to soften its visual impact. As a large lime tree on the site is due to be felled and the flank wall finished in white render, with the 25° roof pitch there should be no unacceptable loss of sunlight or daylight in the ground floor flats. There would also be an angle of 65° between the new dwelling and the back of 4 Westfield Terrace, which provides a separation of 13.5 metres. This would be similar to the recommended distances shown in Appendix 1 of the SPG and, coupled with side screening on the 1st floor balcony, would minimise any direct overlooking. In any event, in urban situations there will always be an element of mutual overlooking which can be offset by further screening where required. Thirdly, being on private garden ground, the proposed dwelling would not result in the loss of any valuable open space.

9. Turning to the SPG, while the plot is not large the density would be lower than that recommended, although the triangular shape is not easy to manage particularly when trying to preserve as many trees as possible. The proposed site layout provides off street parking for 2 cars on a reinforced grass parking system, while the woodland setting of the site is to be retained. Clearly the presence of so many trees will have an effect on sunlight and daylight in the house itself, but this would only affect the appellants who intend to live there. Otherwise, the garden ground should provide sufficient amenity space for their needs.

10. Although the proposed access is to be taken off the one-way exit from Craigie Park Place, which is privately owned, there is some evidence of an old opening in the boundary wall on that side. However, the council's Roads Department was clearly satisfied that the traffic generated by this new house would be within acceptable limits, although this was conditional on the appellants obtaining approval of the owners. While ownership of land is not a planning matter, any condition should also ensure that no development takes place until the vehicular access has been formed. I therefore conclude that the proposed dwellinghouse would have no adverse effect on the character of the surrounding area.

2nd issue

11. The Rosemount and Westburn Conservation Area covers a wide area of the city's growth area during the late 19th century, and comprises a variety of housing types from grand mansions and large villas to detached, semi-detached and terraced houses and blocks of tenements, coupled with open spaces and parks. In paragraph 4, I have described the character of Craigie Loanings onto which the appeal site fronts from which it can be seen that, even though it lies adjacent to the rear of 2 & 4 Westfield Terrace, the proposed house would be more closely related to the rather featureless modern flats at Craigie Park Place and facing the higher density dwellings in Wallfield Place opposite.

12. Craigie Loanings is a busy thoroughfare and bus route that carries a steady flow of traffic, and is flanked by rather bland stone gable ends and boundary walls but they are softened by the trees that line the pavements on either side, and the mature tree screening on the appeal site side of the boundary wall. The new dwelling would be set back

sufficiently to enable the boundary trees to be preserved, so the only noticeable feature in the street scene would be the new pedestrian gate set within the granite boundary wall. Bearing in mind that the adjoining flats make no specific contribution to the area, and that there is nothing to prevent a well designed modern building, such as that proposed, from being sensitively incorporated, I conclude that the character and appearance of the conservation would be preserved in accordance with ADLP policy D5.

3rd issue

13. In support of their application, the appellants commissioned a detailed Tree Report that examined the condition and amenity value of all the trees on site, those that would be preserved or need to be felled for construction or because of their condition. I understand that, as part of the management of the site and using a council approved contractor, the appellants have already undertaken the removal and pruning of trees and significant replanting with the full approval of the council.

14. Although the proposal would result in the loss of 2 category B trees and 3 category C trees and the removal of a rotten category R, with a category B tree felled to improve the access sight line, 2 replacement semi-mature lime trees are proposed to maintain the tree line along Craigue Loanings and to replace the mature lime (T7) in the centre of the site. The report also sets out the protection of existing trees during construction together with a management plan for the future that can be secured by means of planning conditions. I therefore conclude that these measures, coupled with a detailed landscaping scheme for the site, will ensure that the loss of trees proposed will have no adverse impact on the character and amenity of the area, thereby complying with ADLP policy NE5

Material considerations

15. I have taken note of the concerns of local residents, many of which have already been addressed in this decision. However, the use of the private one-way exit from Craigue Park Place would have to be the subject of an agreement between the owners and the appellants, as would their proposed connection to the existing drainage system. Clearly any damage caused during construction would have to be rectified by the appellants and they would also have to make a proportionate contribution to the future maintenance of the road and drains. In this connection, the proposal would have to comply with ADLP policy E6 (Flooding and Drainage).

16. In addition, the proposed house would be set on an isolated windfall site where the circumstances of this development are sufficiently individual to prevent the proposal from setting an unacceptable precedent.

Conditions

17. The council suggested 10 conditions should I allow this appeal, which the appellants are prepared to accept. Although there will be some changes in the wording, I am satisfied that the conditions requiring the approval of materials, details of drainage, landscaping, trees and refuse storage/collection are appropriate to this permission. I will also impose the conditions requiring the parking area to be laid out prior to occupation and the removal of

permitted development rights. However, as the only access to the site will be off the existing driveway from Craigie Park Place, I shall amend the condition to ensure that no development commences until the new access has been formed, because the construction work cannot be carried out without it, and that any damage to the surface be repaired.

18. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission.

19. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

John H Martin

Reporter

Conditions

1. No development shall commence until full details and samples of all the external materials to be used in the development, hereby permitted, have been submitted to and approved in writing by the planning authority, and the works shall be carried out using only those approved materials. (*Reason: in the interests of visual amenity*)
2. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (GPDO), and Part 1 of the Schedule to the GPDO Amendment Order 2011, no extensions, alterations or improvements which materially affect the external appearance of the dwellinghouse, hereby permitted, nor any means of enclosure in its curtilage shall be carried out without the prior writing approval of the planning authority. (*Reason: in the interests of visual amenity*)
3. Before commencing the construction of the dwellinghouse, hereby permitted, the new vehicular access from Craigie Park Place shall be formed, together with a visibility splay of 2 metres x 17 metres from its centre line in a south-westerly direction and, once formed, the visibility splay shall be kept free of any obstruction for as long as the access remains. Furthermore any damage to the driveway caused during construction shall be repaired within 3 months of the date of occupation. (*Reason: in the interests of pedestrian and highway safety*)
4. The dwellinghouse, hereby permitted, shall not be occupied until the car parking areas shown on Drg.No.3788/104A have been laid out, constructed and drained unless otherwise approved in writing by the planning authority, and the approved car parking areas shall thereafter be used only for that purpose. (*Reason: in the interests of public safety and the free flow of traffic*)
5. No development shall commence until a scheme for all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the planning authority. The dwellinghouse, hereby permitted, shall not be occupied until the works have been carried out and completed strictly in accordance

with that approved scheme. (*Reason: to ensure that the development is adequately drained and to safeguard water quality in adjacent water courses*)

6. No development shall commence until a detailed scheme for the landscaping of the site has been submitted to and approved in writing by the planning authority. The scheme shall identify all existing trees to be retained on the land, with details of their protection during construction, any that are to be felled and proposed areas of tree/shrub planting specifying numbers, species, locations and sizes. (*Reason: for the protection of existing trees and in the interests of the amenity of the area*)

7. All planting, seeding and turfing in the approved landscaping scheme shall be carried out in the first planting season following the completion of the development and, within a period of 5 years from that date, any trees or plants which die, are removed or seriously damaged or diseased shall be replaced in the next planting season with others of the same species and sizes, unless the planning authority give prior written approval to any variations. (*Reason: in the interests of the amenity of the area*)

8. The dwellinghouse, hereby permitted, shall not be occupied until a method statement, showing the management proposals for the care and maintenance of all trees and planting, including the timing of works and inspections, has been submitted to and approved in writing by the planning authority. Any works shall be carried out strictly in accordance with the approved method statement, unless the planning authority give prior written approval to any variations. (*Reason: to preserve the character and visual amenity of the area*)

9. The dwellinghouse, hereby permitted, shall not be occupied until provision has been made on the site for refuse storage and collection in accordance with a scheme submitted to and approved in writing by the planning authority. (*Reason: in the interests of public health and to preserve the amenity of the neighbourhood*)

Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)