

KEY INFORMATION

Ward The Ferry

Proposal

Demolition and rebuilding of boundary wall

Address

Moyness
76 Grove Road
Broughty Ferry

Applicant

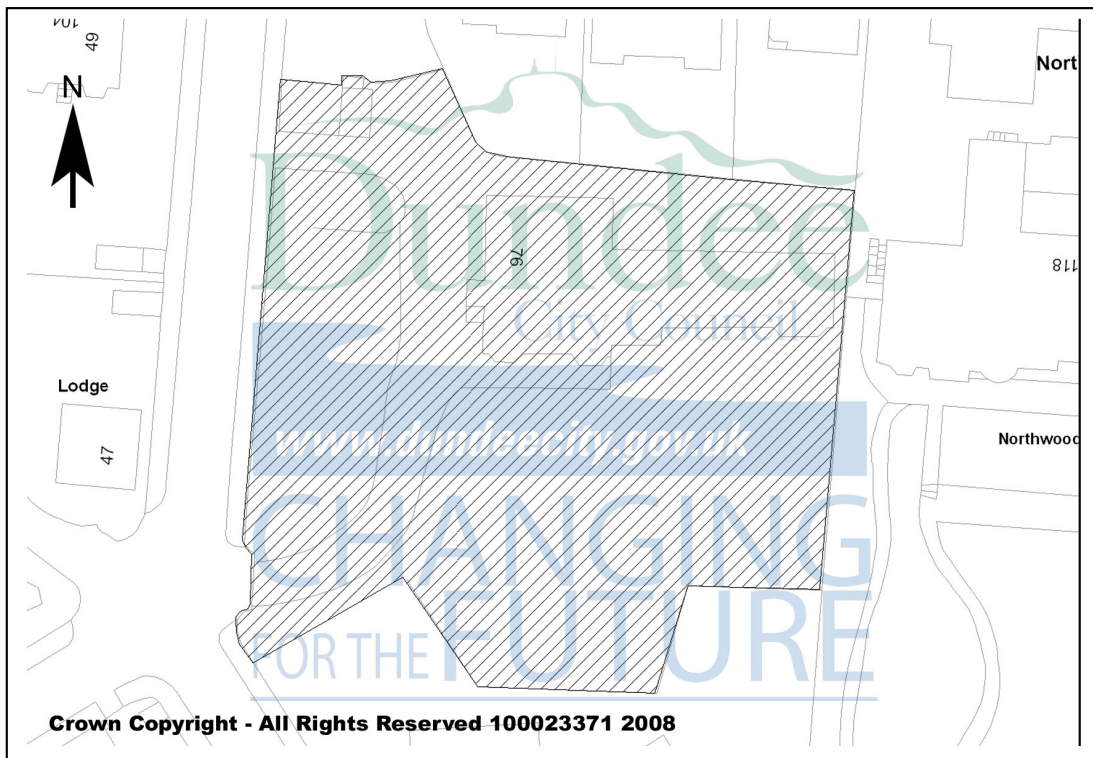
Moyness Nursing Home Ltd
76 Grove Road
Broughty Ferry
Dundee
DD5 1JD

Agent

James Paul Associates
4 Brook Street
Broughty Ferry
Dundee
DD5 1DP

Registered 12 Aug 2008

Case Officer C Walker



Demolition of Garden Wall in Grove Road

The demolition and rebuilding of the boundary wall are **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

The demolition of this boundary wall is inextricably linked with a replacement wall which involves the felling of a number of mature trees and as a result the proposal would detract from the character and appearance of the conservation area. The application is recommended for **REFUSAL**.

SUMMARY OF REPORT

- Conservation Area Consent is sought to demolish the roadside boundary wall at Moyness. This application is linked to proposals to rebuild a new roadside boundary wall and the felling of 11 trees.
- The applicants state that the wall is dangerous and needs to be replaced.
- The site is in the West Ferry Conservation Area and the Council is obliged by statute to take into account the impact of the proposal on the Conservation Area.
- A letter of objection was received from the Community Council who are concerned about the loss of the trees.
- It is considered that whilst it is acceptable to replace the wall, because the proposed demolition is inextricably linked with a replacement wall which involves the felling of a number of mature trees, the proposal would therefore detract from the character and appearance of the Conservation Area.

DESCRIPTION OF PROPOSAL

Conservation Area Consent is sought to demolish some 50 linear metres of roadside boundary wall enclosing the grounds of Moyness Nursing Home at Grove Road. This application is linked to proposals to rebuild a new roadside boundary wall, the report on which appears elsewhere in this Agenda (application 08/00624/FUL refers).

The proposed new wall would be constructed of concrete blocks finished in a smooth sand/cement render and a concrete cope. It would extend to a similar height (approximately 2 metres) as the existing wall. To construct the new wall it is proposed to fell 11 trees along the roadside boundary.

In their supporting statement the applicants say that the tree root system is exerting lateral pressure on the wall and that this will continue as the trees grow leading to eventual collapse.

An Engineers Report has been submitted with the application. Following an inspection in January 2008 the Report concludes that the present condition of the wall represents a danger to users of Grove Road and should be removed as soon as possible, that the trees are the likely cause of the movement seen in the wall and that a replacement wall will require more space than the trees allow so they will have to be removed.

A Tree report has been submitted with the application. This indicates that the proposed excavation indicated on the drawings to construct the new wall would cause severe damage to the root systems of 11 trees to such an extent that they would become dangerously unstable and even severe pruning, which would destroy their visual amenity, would not guarantee survival. A replacement planting scheme of 11 trees and 25 shrubs is proposed.

SITE DESCRIPTION

The site comprises Moyness Nursing Home, a 30 bedroom nursing home in a converted villa which has been significantly extended on its eastern site by a 2 storey brick extension. Moyness is an attractive villa dating from 1876 with coloured rendered

walls and a slate roof. Its principal rooms face south and on the west elevation there is a balustraded entrance porch.

The site is enclosed by a cement faced wall immediately behind which is a row of large mature trees (mainly lime). All these trees (and others within the grounds of Moyness) are protected by a Tree Preservation Order and make a very significant



contribution to the visual amenity of the West Ferry Conservation Area. There are 2 vehicular accesses off Grove Road forming an in-out one way system. The wall is 2 metres high when viewed from the roadside but



retains ground within the site approximately 1 metre above pavement level but the ground rises to higher levels at the north west corner. The footway on Grove Road is approximately 2.4 metres wide and there are 2 lamp standards along the pavement at the site frontage. The closure of the footpath between the 2 access points and the erection of barriers has been carried out by the applicants. This section of Grove Road between Strathern Road and Albany Road is some 7.5 metres wide with footways on either side. The low density residential development typical

of this area means that it is little used for parking.

The site lies within the West Ferry Conservation Area and is surrounded by houses. The area is generally characterised by large stone villas set in landscaped grounds enclosed by stone boundary walls. To the north west is a former lodge house now with its own curtilage and to the north are 3 large modern houses built within the former grounds of Moyness. To the south are 2 large modern houses also built within the former garden ground. To the east is Northwood, a substantial Category B listed villa, now used as offices for Servite Housing Association. New houses and flats have been constructed within the grounds of Northwood. To the west, on the opposite side of Grove Road, is a substantial villa at the junction with Strathern Road and the Category B listed Claremont Lodge.

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

Policy 62 requires applications for the demolition of a building that is worthy of retention in a Conservation Area must be fully supported by reports on the condition and marketing history of the building along with a feasibility study which explores the viability of retaining the building in active use.

Where the demolition of buildings is permitted, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site.

Scottish Planning Policies, Planning Advice Notes and Circulars

National Planning Policy Guideline 18 - Planning and the Historic Environment.

This document provides statements of Government policy in relation to the historic environment with a view to its protection, conservation and enhancement. This NPPG deals primarily with, amongst other things, conservation and listed buildings. Primary reference is made in this document to the Memorandum mentioned below.

Memorandum of Guidance on Listed Buildings and Conservation Areas 1998

This document by Historic Scotland offers Local Authorities and developers best practice advice in dealing with developments which may have an impact on or affect listed buildings or conservation areas.

Non Statutory Statements of Council Policy

The following policy statements are of relevance:

Breaches in Boundary Walls Policy and Guidance for Dundee's Listed Buildings and Conservation Areas.

SUSTAINABILITY ISSUES

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

SITE HISTORY

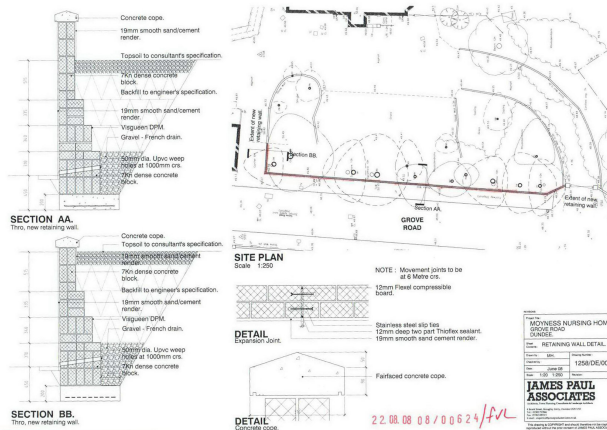
In 1988 planning permission was granted for a 19 bedroom 2 storey extension on the east side of "Moyness" in 1988 and that extension has been constructed - application D12967 refers.

A total of 5 new houses have been built to the north and south of "Moyness" in what was once part of its garden ground, the consents for which date back to the mid to late 1980's.

In December 2007 the Council refused planning permission for a 2 storey extension on the west elevation of the building - application 07/00915/FUL

refers. With those proposals the applicants indicated that they wished to fell a number of trees including 7 mature trees which they stated were damaging the roadside boundary wall at Grove Road. One of the reasons for refusal related to the proposed felling of the mature trees on the site.

The applicants appealed this decision and the appeal was dismissed May 2008. The Reporter identified the roadside trees as the properties main contribution to the conservation area and concluded that there was no reason why the trees could not be retained perhaps with a lowered wall with railings.



as the existing trees, most of which will have a lifespan of in excess of 30 years. He states that any solution to deal with problems with the roadside boundary wall should include the retention of the trees.

OBSERVATIONS

Statutory Requirements

In accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, special consideration must be given to the effects of the proposed development on the character and appearance of the conservation area.

In assessing applications to demolish unlisted buildings in conservation areas the Memorandum of Guidance (which is referred to in NPPG18) states that an assessment should be made of the importance of the buildings to the character or appearance of the conservation area and the proposals for the redevelopment of the site. If the buildings are of any value it suggests that a positive attempt should be made to retain them.

It also states that consent to demolish should be given only where there are acceptable proposals for the redevelopment of the site.

In this case unlike most other walls in the conservation area, this is not a traditional masonry wall but rather a rubble wall faced in cement mortar. It is proposed to demolish this wall and replace it with a new wall which to all intents and purposes will have an almost identical appearance to the existing wall with no resulting loss of enclosure. Although Government guidance recommends that walls requiring significant rebuilding should be rebuilt using the original material as far as possible it is considered in this case that as the new wall will be cement faced there would be no impact on visual amenity by permitting the demolition of the existing wall. The primary contribution of the existing wall to the visual amenity of the conservation area is to provide a sense of enclosure and this impact will not be lost since the new wall is of a similar scale and finish. It is concluded that the demolition of the existing wall and its replacement with

PUBLIC PARTICIPATION

The proposal was advertised as an application to demolish a building in a conservation area. No public comment was received.

CONSULTATIONS

A letter of objection was received from the Community Council who are concerned about the loss of important mature trees along the boundary wall. They are unconvinced about the danger to public safety posed by the wall and are concerned that the public safety issue is a pretext to enable the trees to be removed so that a subsequent application for an extension to the nursing home would stand a greater chance of success.

The Councils Forestry Officer is concerned about the proposed felling of the mature trees on Grove Road which are protected by a Tree Preservation Order. He states that the loss of 11 mature trees on the site will be both visually and climatically difficult to replace and it would take many years for any replacement planting to recover to the same degree

a new wall of similar design is satisfactory and will serve to preserve the appearance of the conservation area.

However the proposal to demolish the existing wall cannot be separated from the fact that the proposed replacement structure involves the felling of 11 trees along the roadside boundary. These trees make a very strong contribution to the visual amenity of the West Ferry Conservation Area and their loss would have a very detrimental impact on both the character and appearance of the conservation area. The proposed replacement planting would take many years to mature and indeed may struggle to survive any future development proposals within the grounds of Moyness.

It is concluded from the foregoing that although the demolition of the existing wall and its replacement with a similar structure is acceptable, the fact that the replacement structure involves the felling of trees which will detract from the character and appearance of the conservation area means that there are not acceptable proposals for the redevelopment of the site. The proposal to demolish this wall will therefore result in an adverse impact on the conservation area contrary to the requirements of Section 64 of the Act.

Other Material Considerations

The other material considerations to be taken into account are:

(A) The Development Plan

In terms of Policies 61 and 62 of the adopted Local Plan, this matter has already been considered in the assessment of the proposed development under Section 64 of the Act and it was considered that the proposed demolition and redevelopment, with consequent tree felling, will detract from the character and appearance of the conservation area.

It is concluded that the proposals contravene Policies 61 and 62 of the adopted Local Plan.

(B) The Various Reports Justifying the Replacement of the Wall and the Felling of Trees

The Council has independently assessed the condition of the wall taking into account the Engineers reports submitted by the applicants and has concluded that the wall is approaching the limit of stability, that a timescale for when this will be reached is indeterminate and that it needs to be replaced.

However, it has consistently been pointed out to the applicants that the retention of the mature trees protected by the Tree Preservation Order is essential and that any proposals for the temporary stabilising and the permanent replacement of the walls needs to take this into account. Whilst this is a matter for the applicants to address they have been informed that the Council will be as flexible as possible in considering appropriate solutions. Suggestions about lowering the wall have been made by both the Council and the Reporter who considered the previous appeal and it has been suggested to the applicants that a solution that would require encroachment onto a portion of the footway might be considered.

There is no evidence that the applicants have independently investigated a solution involving the replacement of the wall with the retention of the trees. This may be because of the cost of such alternatives or that the retention of the mature trees would stymie development proposals previously submitted within the grounds of Moyness. The only alternatives they have considered have been in response to suggestions from the Council but there may be many other solutions which have not yet been put forward.

Therefore whilst it is accepted that a case for the replacement of the wall has been made, an acceptable solution involving the retention of the trees has not been put forward.

(C) The Councils Non Statutory Policy on Breaches in Boundary Walls and Government advice in NPPG 18 and The Memorandum of Guidance

The Councils Non Statutory Policy and Government advice has been considered in the context of the assessment of the proposal against the statutory requirement to preserve or enhance the character and appearance of the conservation area and it was concluded that the demolition of the wall in itself does not depart from the general principles set out in these documents. However the consequent felling of trees is unacceptable.

(D) The Concerns of the Community Council

The Community Council are concerned about the loss of important mature trees along the boundary wall. They are unconvinced about the danger to public safety posed by the wall and are concerned that the public safety issue is a pretext to enable the trees to be removed so that a subsequent application for an extension to the nursing home would stand a greater chance of success. The views of the Community Council on the loss of the trees is endorsed and it has been concluded elsewhere in this Report that this loss has not been justified. Whilst the concerns about the public safety issue being a pretext to remove the trees are understandable given that the issue only came to light when the applicants decided to apply to extend their premises and given that the applicants concerns initially only related to that part of the wall affected by development proposals (and indeed this is the only section of wall fenced off despite other areas being in poorer condition), it has been concluded that there is a genuine case for replacing the wall but that this should only be carried out in circumstances where the mature trees are protected.

It is concluded from the foregoing that the demolition of this boundary wall and its replacement with a similar wall coupled with the felling of the mature trees on this boundary would fail to meet the statutory requirement to preserve or enhance the character or appearance of the conservation area. It is therefore recommended that conservation area consent be refused.

Design

It is considered that to demolish the existing wall and replace it with a new wall with an almost identical appearance to the existing wall with no resulting loss of enclosure is satisfactory. However the loss of the mature trees on Grove Road will have a significant adverse impact on the visual amenity of the area.

CONCLUSION

The demolition of this boundary wall is inextricably linked with a replacement wall which involves the felling of a number of mature trees which make a very significant contribution to the character and appearance of the West Ferry Conservation Area. The proposal would therefore detract from the character and appearance of the conservation area. The application is recommended for REFUSAL.

RECOMMENDATION

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

Reason

- 1 The demolition of this boundary wall is inextricably linked with a replacement wall which involves the felling of a number of mature trees which make a very significant contribution to the character and appearance of the West Ferry Conservation Area. The proposal would therefore detract from the character and appearance of the conservation area and fail to meet the Statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.