

KEY INFORMATION

Ward Riverside

Proposal

Removal of section of wall to allow for vehicular access

Address13A Strawberry Bank
Dundee
DD2 1BJ**Applicant**Mrs K Eyles
13A Strawberry Bank
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DD2 1BJ**Agent**G D Architectural Services
101 Brook Street
Monifieth**Registered** 3 Oct 2003**Case Officer** R Anderson

The removal of a section of wall for vehicular access is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

RECOMMENDATION

It is considered that the proposal to breach the boundary wall in Strawberry Bank represents a further erosion of the character of the area and is contrary to local and national policy. There are no material considerations to outweigh policy in this case and therefore refusal is recommended

SUMMARY OF REPORT

- An application has been received to remove a 3.2m section of boundary wall and form a hardstanding to provide vehicular access at 13A Strawberry Bank. The property is located within the West End Lanes Conservation Area.
- The applicant has indicated the vehicular access is required to provide more convenient access to the property as she has a young child and her mother suffers with ailments which make the current walk to the property difficult. In darkness hours walking in the Lane can lead to feelings of vulnerability.
- Three letters of objection were received. The main issues raised related to the proposal being contrary to the local plan, problems with parking and access, impact on residential amenity and an erosion of the character of the area.
- The proposal is contrary to local plan policy, national guidance and council approved policy. The issues raised by the applicant are not considered to be valid planning grounds and there are no other material reasons for overturning policy in this case. Accordingly refusal is recommended.

DESCRIPTION OF PROPOSAL

Full planning permission is sought for the demolition of a section of 2m high stone boundary wall to form a new vehicular access, on the eastern boundary of property fronting onto Strawberry Bank. At present the wall is constructed in horizontal layers of varying sized stone blocks with flat coping stones atop incorporating a pedestrian entrance at its southern end. The proposal involves the removal of 3.2m length of wall with the reinstatement of a stone pier which is to be removed from the southern end of the existing wall. Within the curtilage an existing gravel area will be extended to form a parking area finished in brown paviers.

SITE DESCRIPTION

The site in question, measures some 240m² in area and forms the curtilage of a substantial stone and slate semi-detached property on the west side of Strawberry Bank, 85m south of its junction with Perth Road. The site is surrounded on all sides by residential curtilages and is bounded on three sides by 2m high stone walls. Strawberry Bank is located within the West End Lanes Conservation Area. The lane is characterised by high stone walls on either side of a distinctive, enclosed linear space with vistas to Magdalen Yard Green and the Tay beyond. The lane is finished in a combination of stone paving slabs and cobblestones.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 1998

The following policies are of relevance:

Policy BE11 states that development within conservation areas should complement and enhance the character of the surrounding area.

Policy BE4 (following the general terms of policy H2) covers development in garden ground. Criteria H of this policy indicates that breaches in walls will only be allowed

where necessary to permit safe vehicular or pedestrian access.

Dundee Urban Nature Conservation Subject Local Plan 1995

There are no policies relevant to the determination of this application

Finalised Dundee Local Plan 2003

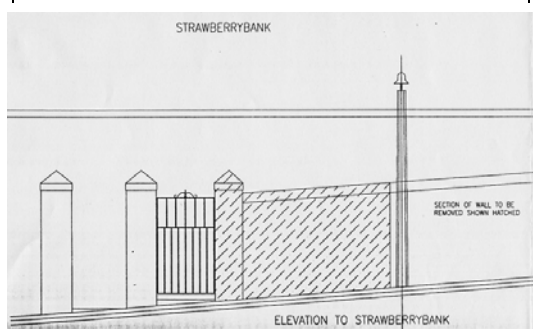
The following policies are of relevance:

Policy 61: Development in Conservation Areas

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

National Planning Policy Guideline 18 - Planning and the Historic Environment (para 46) indicates that planning authorities should afford a high priority in decision making to



preserving and enhancing the character or appearance of conservation areas when considering proposals which affect such areas. If proposals conflict with this objective there should be a presumption against them.

The Memorandum of Guidance on Listed Buildings and Conservation Areas produced by Historic Scotland reflects this general advice but is more specific in relation to boundary walls and their impact on a streetscene. Paragraph 1.8.1 indicates that demolition of garden walls to accommodate large numbers of cars should always be avoided. Where a certain number of openings are acceptable they should be restricted in number and size. Paragraph 1.8.2 continues that boundary walls etc can make a significant contribution to the streetscape character of a conservation area. Individual breaches may have little impact by themselves, however

they may set or continue an undesirable precedent which cumulatively will affect that conservation area.

Non Statutory Statements of Council Policy

The following policy statements are of relevance:

The adopted Dundee City Council Policy and Guidance note on Breaches in Boundary Walls para 2.2.1. states:

"Applications will not be recommended for approval where the wall is considered to contribute to the character of the listed building or the conservation area and where the proposed alteration would detract from this character. Where there have already been alterations to boundary walls in the vicinity, to the detriment of the character of the conservation area, the remaining sections of boundary wall provide evidence of the original character and form of the townscape, and take on a higher value. Therefore rather than accepting further deterioration, there will still be a presumption against additional breaches in such areas and, indeed, a desire for the restoration of already altered walls to their original form."

LOCAL AGENDA 21

Key theme 15 indicates that diversity and local distinctiveness are valued and should be protected. The 2m high wall in this case forms an integral part of the local distinctiveness.

Key theme 7 states that access to facilities, services, goods and people is not achieved at the expense of the environment.

SITE HISTORY

There is no site history of relevance to this application

PUBLIC PARTICIPATION

No adverse comments have been received.

CONSULTATIONS

Three letters of objection have been received. The main issues arising are:-

Development is contrary to policy 61 of the Dundee Local Plan Review 2003

Problems with vehicular access and parking

Noise impact on residential amenity

Impact on character of Conservation Area

These points will be considered in the Observations section of the report.

OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above

Policy BE11 - The property in question is located within the West End Lanes Conservation area which has, as an integral part of its character, substantial stone walls enclosing narrow streets running between Perth Road and Magdalen Yard Road. Strawberry Bank is a particularly good example with much of the remaining walling still intact. The 3.2m breach involves the further erosion of an essential element of the conservation area and will be relatively conspicuous. Such a proposal would not complement or enhance the character of the surrounding area. It is therefore contrary to the terms of policy BE11.

Policy BE4 - This policy indicates that breaches in boundary walls in domestic properties falling within the delineated area will be acceptable where it is necessary to achieve safe vehicular access. In this respect the proposal is not contrary to the terms of this policy.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Other Material Considerations

The other material considerations to be taken into account are as follows:

Finalised Local Plan Review

Policy 61: Development in Conservation Areas - similar considerations are given to this policy as to policy BE11 above.

National & Local Policy

NPPG 18 and the Memorandum of Guidance on Listed Buildings and Conservation Areas - As indicated above the removal of a section of wall in Strawberry Bank will have an effect on the very feature that gives Strawberry Banks its character i.e. the wall. The proposal does not preserve or enhance the character of the Conservation Area and is contrary to the terms of the NPPG, which echoes the national requirement of section 64 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, where in such circumstances there is a presumption against development.

The Memorandum of Guidance is more specific in relation to the proposal indicating that breaches in boundary walls can have a significant effect on the character of a conservation and cumulatively can be of detriment. There are other breaches in the walls of Strawberry Bank, which in most cases have been to the detriment of the character and appearance of the lane. It is difficult to judge at what point such breaches and their cumulative effect detrimentally affects an area. The council approved policy "Breaches in Boundary Walls" provides clarity on such matters. It states that even where breaches have already occurred elsewhere in lanes to their detriment, the remaining walls are of higher value and should be preserved to maintain the essential character. This is exactly the case with this proposal. The current proposal will continue the deterioration of the walls in Strawberry Bank. If the application were to be approved it may set an undesirable precedent for other similar breaches elsewhere. Existing breaches do not represent a factor sufficient to outweigh council policy.

Letter submitted by applicant and agent in support of the application -

The main issues raised in the letter relate to the applicant having a seven month old child and finding it inconvenient to access her property from the adjacent streets where she currently has to park. In addition the applicant's mother is suffering with ailments and finds it difficult to visit the premises if required to park in adjacent streets. It is also the case that as the applicant is a senior nurse and works night shifts she sometimes accesses the lane in darkness, with an accompanying sense of vulnerability and insecurity. All of the points raised by the applicant are not contested by this department. Indeed they are serious issues to which the council are sympathetic. However they are not planning/land use matters. They relate to the applicant's personal situation, which if improved would be at the expense of the built environment. It is widely accepted that the planning system does not exist to protect individuals but to ensure objectivity and that appropriate development is realised without detriment to others. It is considered that the points raised by the applicant do not form valid material considerations.

Points raised by the objector

The issue of the proposal being contrary to the terms of the local plan are agreed with and explained elsewhere in this report. The issue of the proposal being problematic for parking and access and having a detrimental effect on residential amenity is not shared. Strawberry Bank is a public road and therefore open to vehicular use. Whereas it may be desirable to attempt to reduce the number of vehicles using the lane because of convenience and the impact on its fabric, their use does not detrimentally affect residential amenity or present a major pedestrian hazard. The majority of properties are located behind high stone walls affording them a large degree of privacy and because of the linear, narrow nature of the lane site lines are good allowing vehicles to be easily identified and they are likely to be travelling at slower speeds. If there were no other grounds for refusal, it is unlikely that vehicular use would be a significant reason to sustain a refusal and should not be used in this case. The issue regarding the impact on the character of the conservation has

already been covered and is agreed with.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

Design

The return of the gate pier is a feature which is repeated elsewhere in Strawberry Bank and is welcomed. The use of paviors within the curtilage to surface the parking area is also acceptable to this department. However the breach in the wall (and its cumulative effect on others) have a detrimental effect on the design of the Historic Lane i.e. long continuous linear boundary features.

CONCLUSION

It is concluded that the removal of this section of boundary wall will create further erosion of boundary wall - an essential part of the character of the conservation area. In this respect the proposal is contrary to national and local policy and refusal is recommended.

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:

Reasons

- 1 The proposal is contrary to policy BE11 of the Dundee Local Plan 1998 as the breach in the wall would have an adverse effect on the appearance and character of the Perth Lanes Road Conservation Area and, if approved, would set an undesirable precedent for applications of a similar nature. There are no material considerations which would justify this policy being set aside in this case.
- 2 The proposal would be contrary to the Council approved policy "Breaches In Boundary Walls" as the removal of the wall represents further deterioration of the local townscape in an area where the

remaining walls take on a higher value as a result of previous breaches.

- 3 That the proposal is contrary to the terms of NPPG 18 (and subsequently the national requirement as outlined in section 64 of the 1997 Act) and the Memorandum of Guidance on Listed Buildings and Conservation Areas in so far as the proposal will fail to preserve and enhance the character and appearance of the conservation area.
- 4 That the proposal is contrary to policy 61 of the Finalised Local Plan Review in so far as it contributes to the erosion of an interesting landscape feature which defines the historic street pattern, to the detriment of the character and appearance of the area.