



Decision by Mike Shiel, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-250-2320
- Site address: 92 Hepburn Gardens, St Andrews KY16 9LN
- Appeal by CAF Properties against the decision by Fife Council
- Application for planning permission no. 18/00703/FULL, dated 16 March 2018, refused by notice dated 22 February 2019
- The development proposed: Change of use from dwellinghouse (Class 9) to 40 bed care home (Class 8) and the erection of two linked two-storey extensions, erection of boundary wall, and formation of car parking and associated works including access and landscaping.
- Date of site visit by Reporter: 30 April 2019

Date of appeal decision: 21 May 2019

Decision

I dismiss the appeal and refuse planning permission.

Preliminary

1. In a representation made on behalf of one of the third parties, it was put to me that I should decline to determine this appeal under the terms of section 35(4) of the Town and Country Planning (Scotland) Act 1997, as amended, because the statutory requirements about giving notice to the owners of the application site had not been satisfied. In particular, it was stated that, at the time the original application was submitted to Fife Council in March 2018, one of the joint owners of the property was not named on the land ownership certificate as having been served with the necessary notice of the application. Furthermore, two areas of land within the application site were owned by persons other than the owners of 92 Hepburn Gardens: (1) part of the public road (where alterations were to be made at the access to the site), which was owned by Fife Council; and (2) land between the boundary of 92 Hepburn Gardens and the Kinness Burn across the Lade Braes Walk (which was to be used for a drainage connection), which was common good land, owned by the inhabitants of the Burgh of St Andrews. No notice had been given to the owners of these areas of land.

2. In connection with these omissions, my attention was drawn to the case of *R (on the application of Pridmore) v Salisbury District Council [2004] EWHC 2511*. In that case it was held that failure to give notice of a planning application to an owner of the land to which the application relates meant that the statutory requirement had not been met, and there was no discretion for the planning authority to determine the application. It was also held that, in



the case of such a failure, the authority should require a fresh planning application to be made, with the correct notification carried out.

3. In this case the application was originally reported to the North East Planning Committee of Fife Council on 31 October 2018. It was not determined on that date and a further report was made to the committee on 6 February 2019. In that report it was stated (and I quote in full):

“This application was continued by the North East Planning Committee of 31st October due to concerns raised over the accuracy of the submitted location plan and the land ownership certification. Subsequently, the applicant has submitted an amended location plan that includes land required for the drainage outfall to the south east of the site, alongside updated land ownership certificates. The application was advertised in the press and neighbours re-notified to allow for additional public comments to be made in relation to the proposals. Following this, the application was re-advertised again, along with an additional site notice erected in relation to the impact of the development on the setting of listed buildings, to ensure all statutory procedures were covered appropriately. Additional comments submitted as a result of these additional procedures are considered in the ‘Representations’ below.”

4. As part of the submissions made on behalf of the appellant, it is stated that notice was served on the joint owners of 92 Hepburn Gardens on 12 April 2018. A further notice was served on the council in respect of its land at Hepburn Gardens on 29 October 2018. It was also notified as owner of the common good land, as title to this is vested in the council, not the inhabitants of the former Royal Burgh. Because it did not prove possible to ascertain the ownership of the pathway along the Kinness Burn, the application was advertised in accordance with regulation 20 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 on both 29 November 2018 and 3 January 2019.

5. The appellant has also drawn my attention to an earlier appeal decision (PPA-250-2278) where the reporter also had to consider the issue of inadequate land ownership notification and certification. In that case he found that it had not been demonstrated that prejudice would be caused to any party by the course of action which the appellant confirmed it would follow (namely, the fresh notification of the landowners) and, in those circumstances, he was satisfied that it would be open to him to entertain the appeal. In reaching that decision he gave consideration to the *Pridmore* case, in which he noted that it was the applicant’s deliberate failure to comply with the statutory requirements that persuaded the court not to exercise its discretion. It did not find that a failure to comply with the statutory requirements precluded it from exercising its discretion to preserve the planning permission which had been granted.

6. A previous appeal decision does not, of course, constitute a legal precedent. In this case, however, there is no evidence that any parties have been prejudiced as a result of the original omissions in relation to the land ownership certificates. Those omissions were corrected, and an ample opportunity was given for any party so affected to make representations on the application. As the committee report of 6 February 2019 indicates 53 new letters of objection were received following the continuation of the application at the previous committee meeting; mostly from previous objectors, but four new individuals

submitted representations. It is quite clear that the landowners who were not originally served with notice were well aware of the proposal, and have not been prejudiced by that omission.

7. In all the circumstances of this case, I can see no useful purpose being served by declining to determine this appeal. If a new application was to be submitted, with fresh notification and certification, it would merely prolong the period of uncertainty for all involved, including third parties. I shall therefore proceed to determine the appeal.

Reasoning

8. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are:

- (a) the principle of providing a care home on the appeal site;
- (b) the scale and design of the proposed extensions and their impact on the existing building;
- (c) the impact of the development on the amenity of neighbouring residents;
- (d) the traffic and road safety implications of the proposal; and
- (e) any impact on trees and wildlife.

9. In addition, the appeal site lies within the Hepburn Gardens Conservation Area and section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Section 59(1) of that Act also requires that, in considering whether to grant planning permission for development which may affect a listed building or its setting, I must have special regard to the desirability of preserving the building, its setting, or any features of special architectural or historic interest which it possesses.

The principle of a care home on this site

10. The development plan for this area comprises the TAYplan Strategic Development Plan 2016 and the Fife Local Development Plan 2017 (FIFEplan). Policy 4 (Homes) in TAYplan states that population projections indicate that there will be growth in the number of people of pensionable age in the area over the coming years, and there is a need to provide an appropriate mix of housing type, size and tenure. Whilst this provides broad support for the provision of additional care facilities it gives no guidance on locational requirements. I therefore consider that the most relevant development plan policies are to be found in FIFEplan.

11. Policy 1 (Development principles) of that plan is intended to be used as a “gateway” to assess the principle of development. It states that the principle of development will be supported if it is within a defined settlement boundary (as is the appeal site) and it complies with the policies for that location. The development must also meet the applicable requirements in parts B and C of Policy 1. Most of these are not directly applicable to this proposal.

12. Of direct relevance, however, is Policy 2 (Homes), which contains a section on care homes. This states that such provision, covering both new development and change of use, should be in or adjacent to existing predominantly residential areas, but should not lead to a concentration of such facilities. The appeal site is located in a residential area and, thus, meets the first requirement. No definition of what is meant by “a concentration of such facilities” is provided in the plan, and some third parties have pointed to the relative proximity of existing care homes 465 metres to the west along Hepburn Gardens, and about 800 metres north-east on Argyle Street. The operators of the latter (Gibson House) are, in fact, proposing to vacate those premises and move to the current site if permission is granted, although there is no clear indication of what their present building might be used for. In any event, I am not persuaded that the existence of three care homes within an overall distance of over one kilometre would represent an over-concentration of such facilities in this area.

13. Some third parties have also suggested that there are other more suitable sites available in St Andrews for a care home, including one in the proposed Western Expansion Area of the town. There is, however, no requirement for the appellant to demonstrate that this is the most suitable location for a care home; it is only necessary to determine whether it is an acceptable site in planning terms.

14. Whether the care home is operated on a fully commercial basis or by a not-for-profit or charitable concern, as is the current intention, is also not a material planning consideration. The proposal does, however, involve a change of use of the existing house from Class 9 (residential) within the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997, as amended, to Class 8 (residential institutions). This implies that there would be a change in character in the use of the building, and hence the site, and I consider that further below.

15. Returning to FIFEplan Policy 2, I conclude that the location of a care home within this residential area is, in broad principle, acceptable. However, that policy also requires any care home proposal to meet a number of other criteria. I have no doubt that the development would provide a good residential environment for the occupants of the home (criterion 2); and I have no reason to believe that it would not have suitable access for elderly people and those with mobility problems (criterion 4). Criterion 1 requires good access to community facilities, emergency services and public transport. I have no information about the distribution of community facilities in St Andrews, but this is not a remote location and residents of the care home would be most likely to travel to any such facilities by vehicle. Although some third parties have expressed concern about the access to the development by emergency vehicles, the appellant has submitted drawings showing swept path analyses for vehicles of various sizes, which would include fire engines and ambulances. In addition, the development would need to comply with the relevant Building Regulations. As far as public transport access is concerned, I note that the previous bus service along Hepburn Gardens is no longer operational. However, there are bus stops on Buchanan Gardens within reasonable walking distance and with a relatively frequent service. I consider that the site therefore would have reasonable access by public transport, which would be primarily used by staff and visitors rather than residents.

16. I therefore conclude that the development would not conflict with the requirements of criteria 1, 2 and 4 of Policy 2. This leaves criterion 3, which requires that care homes should be of a scale and character appropriate to the surrounding area.

The scale and design of the proposed development

17. The existing building at 96 Hepburn Gardens (known as The White House) is a large, detached house set in an extensive, mature garden to the rear of the houses fronting onto the south side of Hepburn Gardens. It was built in 1904 to a design by a firm of Dundee architects, and is of a distinctive and attractive Arts and Crafts design, with white harled walls and roofs clad in Caithness slabs. It is not a listed building. The house would be converted to provide ancillary accommodation for the care home (lounges, dining room, kitchen and plant room, laundry, offices etc.) The 40 bedrooms would be provided in two new buildings linked to the existing house by short glazed links. One would be located to the east of the house and one to the south. They would be of similar design with white wetdash render walls and slated pitched roofs around three sides with a central flat-roofed section.

18. It is argued for the appellant that the design of the extensions does not attempt to replicate that of the present house, but to adopt some of its main design elements, such as the roof pitch and timber windows. It is further stated that their ridge heights would be slightly lower than the existing building.

19. Whilst the retention of the existing attractive building is to be welcomed, I find that the scale and proximity of the proposed extensions would be overbearing and would effectively overwhelm it. The appearance of the original house would remain largely unaffected when viewed from the access, but its eastern and southern elevations would be significantly compromised by the close proximity of the new extensions. The latter, in particular, which faces onto the garden, would have its importance severely diminished by the extension which would obscure more than half of its façade. Although I understand the reason for the close proximity of the new buildings, in order to minimise the circulation space within the care home, it would create awkward visual relationships with important design features of the existing house; especially the attractive and distinctive gabled projection on its south-western corner.

20. The impact of the new extensions is, in my view, well shown by some of the submitted photomontages, showing before and after visualisations; and in particular by the aerial view which I consider demonstrates that the existing house would be visually “swamped” by the new development.

21. There has been some debate between the appellant and a number of third parties on the question of the plot ratio of the proposed development, in the context of the Hepburn Gardens Conservation Area Appraisal and Management Plan. Although I deal with the impact of the development on the conservation area further below, it is appropriate to consider this matter in relation to the scale of the proposal. The above-mentioned plan sets out plot development criteria for various zones within the conservation area. The appeal site lies within Zone 5, between Hepburn Gardens and the Kinness Burn, which includes tightly developed semi-detached villas towards its eastern end and vast properties to the west, in large secluded grounds and mature landscapes. The criteria are specifically for

residential infill development, and it can be argued are not therefore applicable to this type of proposal. However, the appellant states that the proposed development footprint would be just over 20%, which is in keeping with the average plot development in the surrounding area and below the maximum of 30% in the Management Plan. This view is supported by the planning officer's report to committee, which also states that hardstanding areas have not been considered as forming part of the development footprint as they do not contribute towards the perceived density of development to the same extent as built structures.

22. On the other hand, some third parties have argued that the criterion relates to "development footprint" rather than "building footprint", and on that basis have calculated the plot development ratio as 58%. However, this includes areas such as the artificial turf lawns and the below-ground surface water retention tank, as well as parking and hardstanding areas, and is, therefore, a somewhat extreme view. In any event, I am not convinced that the discussion over development ratios is particularly productive in the circumstances of this case. What is relevant is that the building footprint of the two extensions would be over twice that of the present house, thus tripling the extent of built development on the site. Whilst this is undoubtedly a very large site, the tight clustering of the buildings would produce a scale of development which would be at odds with the surrounding area.

23. Overall, I conclude that the proposal would constitute a visual over-development of the site, which would detract from the character and appearance of the existing house, and from the character of the area. I find that it would therefore fail to comply with criterion 3 of FIFEplan Policy 2 in respect of care homes. As such, it would not comply with that policy.

The impact on the amenity of neighbouring residents

24. As indicated in paragraph 14 above, the change of use of the building and site from a domestic dwellinghouse to a residential institution would involve a change in the character of the site. In particular, I consider that it would result in a greater intensity of activity within the site, which would impact on the amenity of neighbouring residents; especially the occupants of the houses in closest proximity, nos. 84-94 Hepburn Gardens. Policy 10 of FIFEplan states that development will only be supported if it would not have a significant detrimental impact on the amenity of existing land uses, and sets out ten criteria against which such impact should be assessed. Some of these are not of relevance in this case, but there are five which need to be considered.

25. Criterion 3 deals with noise, light and odour pollution. Some third parties have expressed concern over noise from the plant room and kitchen, which would be in the section of the existing house closest to adjoining properties. A noise assessment has been carried out for the appellant. This concluded that noise from equipment within the plantroom and the kitchen extract fan would be well below the noise rating limits which the council had applied. The council's Public and Environmental Protection Team raised no objections to this development subject to the imposition of a condition specifying maximum noise rating levels. Despite continuing concerns by residents, there is no compelling evidence before me to suggest that noise from within the building could not be adequately controlled. I deal with noise from external sources below.

26. As far as lighting is concerned, no details have been included of any external lighting. It is, however, reasonable to expect that there would be a need for some lighting in the car parking area and adjacent to the main access into the care home. Whilst such lighting would be apparent to the closest adjoining residents, I see no reason why its type and operation could not be adequately controlled through a condition, in order to minimise any intrusive impact.

27. Concern has also been expressed by third parties about the effect of odours from the kitchen. This has been addressed in the appellant's submissions and the council's Public and Environmental Protection Team has again expressed no concerns. There is again no compelling evidence to suggest that cooking odours could not be adequately controlled.

28. Criterion 4 of Policy 10 relates to traffic movements. I deal with the impact of traffic on Hepburn Gardens below, and in this and the following paragraphs consider the effect of increased traffic movements within the site and their impact on the amenity of neighbours. A Transport Statement submitted for the appellant indicates that the maximum expected traffic flow would be between six and eight vehicles in an hour. It states that this would be moderate in absolute terms. I would not disagree with that assessment, but it must be set in the context of the present use of the house, where vehicle movements will be very low. The peak flow would equate to one vehicle movement every seven to ten minutes at the peak period, a significant increase in activity that would be clearly noticeable to residents living adjacent to the access and parking area. The appellant has indicated that deliveries to the care home would take place only during the day and be made by vans rather than HGVs. There would be an average of two refuse collections per week, and a particular concern expressed by the nearest neighbours is the currently proposed arrangement for such collections. This would involve refuse vehicles reversing along the narrow gap (3.275 metres) between the northern wall of the existing house and the boundary walls of nos. 86 and 88 Hepburn Gardens to access the bin store currently proposed to be in a building on the eastern side of the present house. I am in no doubt that such an arrangement would result in significant noise and disturbance to the occupants of the nearest adjoining houses, albeit during the daytime and probably only twice a week, resulting in a significant adverse effect on their amenity.

29. In a recent letter sent to neighbours by the appellant, it was suggested that arrangements for refuse storage and collection could be amended to eliminate the need for the vehicle movements referred to above. Three proposed parking spaces behind no. 86 would also be removed. Sketch plans showing the proposed amendments were included with the letter. These plans were not before the council when it determined the original application, and they are not formally before me. I consider that the changes would improve the situation for the occupants of nos. 86 and 88 Hepburn Gardens, and, if I were minded to allow the development could be imposed by way of conditions, as they would not alter the fundamental nature of the proposal.

30. However, notwithstanding these suggested changes, I consider that the increased number of vehicle movements to and from, and within the site, would have a significant adverse impact on the amenity of immediately adjoining neighbours. Even if the suggested changes were made, the impact of the presence of the car parking/turning areas immediately behind nos. 90 and 94 Hepburn Gardens, both of which have relatively short rear gardens, would still be substantial. Those impacts would include not just the noise of

moving vehicles, but associated activities, such as doors being closed, people talking, and the noise associated with the delivery of goods or refuse collection (including reversing alarms). These activities would result in a significant level of disturbance to the residents of the closest houses; most particularly nos. 90 and 94 Hepburn Gardens, but also no. 88 and Easter Wayside. Even though most movements would be during the day, given the nature of the proposed use, there would be likely to be some outwith daylight hours (for example, doctors and other medical personnel, and ambulances). The impact of such movements at night might be accentuated if there were to be motion-controlled lighting in the car parking area.

31. In reaching my conclusion on the impact of additional vehicle movements, I am conscious of the very high level of amenity which the occupants of the adjoining houses in Hepburn Gardens currently enjoy. In determining whether the impact on neighbours' amenity would or would not be acceptable, consideration must be given to the existing context. On that basis, I find that the impact of the development, in terms of the traffic movements and associated activity in part of the site, on their amenity would be unacceptable.

32. Criterion 5 of Policy 10 concerns the loss of privacy, sunlight and daylight. In respect of the latter two elements, the sun path and overshadowing diagrams submitted for the appellant demonstrate that the development would not have a serious impact. In terms of the impact of the development on the privacy of neighbouring residents, there is a first floor window on the northern elevation of the existing house facing onto no. 88 Hepburn Gardens and only a little over three metres from the boundary. However this window serves a room that is to be used as staff showers and is to be blocked up internally; thereby obviating any issues of overlooking. Elsewhere, the northern elevation of the new eastern bedroom block, which contains windows at both ground and first floor levels, would be some 18 metres from the boundary with nos. 84 and 86 Hepburn Gardens, and 30 metres from the rear of the houses themselves. I am satisfied that these distances would be adequate to ensure no significant loss of privacy.

33. The occupants of West Court and Littleridge, detached houses situated to the east of the appeal site, have both expressed concerns over the impact of the development on their privacy. Both have large rear gardens and I consider that there would be no significant impact on the privacy of the houses themselves. The nearest part of the eastern block is only 3.9 metres from the boundary with West Court, although there are no windows directly facing that property. I recognise that the new building would be prominent from the rear garden of that house, because of its closeness to the boundary, the removal of an existing mature tree, and a slight increase in ground level proposed (about one metre). Whilst I recognise that the current occupants of West Court would experience some loss of their current amenity as a result of the development, I do not consider that this could be judged as unacceptable. The rear garden of Littleridge is currently well screened by mature trees and shrubs along its boundary, which would significantly ameliorate the impact of the new eastern block in terms of any overlooking of the garden. In terms of the southern block, its western elevation, which is closest to the boundary with Easter Wayside, has no windows in it, and I am satisfied that the privacy of that house and its large garden would not be unduly affected. Craig Lodge, to the south-west, is at a substantially lower level than the appeal site, and would not be directly overlooked.

34. Criterion 6 refers to construction impacts. Construction of the proposed development would inevitable have a temporary disruptive impact, both in relation to the movement of construction vehicles into and out of the site, and the building activities within it. Such impacts are inevitable within any construction project and would not justify the refusal of planning permission. The imposition of a condition restricting the hours of working would help to mitigate the impact.

35. The final relevant criterion of Policy 10 (no. 7) concerns the visual impact of the development on the surrounding area. I have considered the visual impact of the proposed development in terms of the effect on the setting, character and appearance of the present house in some detail in the preceding section of this notice; where I concluded that it would constitute a visual over-development of the site. However, in terms of the direct visual impact on adjoining properties, I consider that the separation distances are such that the new buildings would not be visually overbearing when seen from adjoining houses.

36. To sum up on Policy 10, I consider that the development would not significantly conflict with a number of the relevant criteria of this policy. However, I also conclude that the increased number of vehicle movements and associated activity in the car parking area would have a significant adverse impact on the amenity of those residents living closest to that part of the site. Overall, therefore I find that there it would not fully comply with the requirements of this policy.

Traffic and road safety implications

37. I have referred to the Transport Statement and the predicted maximum traffic flows generated by the care home in paragraph 28 above. Although some third parties have questioned these figures, I accept that they have been derived from the TRICS database, which is the standard methodology used for transport assessments. The council's Transport Development Management Team raised no objections to the development on road safety and traffic movement grounds, and I accept that, in broad terms, the increase in traffic generated by this development would have a negligible impact on the capacity of the local road network.

38. To provide a suitable vehicular access to the site it would be necessary to widen the existing gateway from about two metres to five metres. In addition, in order to provide the required visibility splays at the entrance, it is proposed to re-align the kerb line on Hepburn Gardens on either side of the access point. At the time of my site inspection it was apparent that a considerable amount of on-street car parking takes place along this stretch of Hepburn Gardens, effectively reducing the carriageway to a single vehicle width for some distance. In that context, I can understand the concerns expressed by many of the third parties about the difficulties that might be created for vehicles entering and leaving the site. It is unclear as to how far the effect of parked vehicles in obstructing the visibility requirements has been taken into consideration either in the appellant's transport assessment or by the roads authority.

39. However, there is a 20mph speed restriction on this part of Hepburn Gardens and the narrow effective width caused by the on-street parking will also serve to lower vehicle speeds. In the absence of any compelling evidence that the development would have an adverse effect on either traffic movements or road safety, I conclude that it would comply

with FIFEplan policy 3, which requires developments to address their impacts on the local road network.

Impact on trees and wildlife

40. The site contains a substantial number of mature trees and shrubs. Many of these are on the steep bank down to Lade Braes, which would not be directly affected by the development. The proposal involves the removal of nine trees, the largest of which is a tall sycamore close to the north-eastern corner of the site, which the tree survey indicates is in poor condition. A large lime tree roughly in the centre of the site would be retained, although it would be very close to the proposed eastern bedroom block, and it is proposed to plant twelve new specimen trees. A Tree Protection Plan and Arboricultural Method Statement have been submitted by the appellant, and I note that these have been accepted by the council's tree officer as an appropriate means of securing the protection of the trees on the site, both during construction and in the longer term. I am satisfied that this can be covered by appropriate conditions. Whilst I recognise that the proximity of the lime tree to the new buildings is a matter of some concern, including because of its falling distance, I agree with the view expressed in the council's committee report that, given its current good health, it is worth retaining because of its visual and ecological benefits.

41. Although the loss of some existing trees is to be regretted, I am not persuaded that the impact on either the overall amenity of the area or its natural heritage interests would be so severe as to warrant the refusal of planning permission on that basis.

42. A bat survey has been carried out which found a number of bat roosts within the house. Of the trees within the site only the mature lime (which is to be retained) was identified as having bat roost potential. All bats are European Protected Species and a licence from Scottish Natural Heritage (SNH) would be required before any work was undertaken to disturb or remove a bat roost. The survey report proposed protection and mitigation measures. SNH has confirmed that, based on the information currently available, and providing that all measures outlined in the bat survey report were adhered to, it is likely that the tests set out in The Conservation (Natural Habitats, &c.) Regulations 1994, as amended, would be met and therefore that a licence would be granted. I am therefore satisfied that this matter could be adequately covered by appropriate conditions.

43. Local residents provided evidence that red squirrels are found in the vicinity of the site. A survey was subsequently undertaken for the appellant. This identified no squirrel dreys within the site, and no red squirrels were observed on the day of the survey. It is clear from photographs provided by a neighbouring resident that red squirrels do occur in the area, but there is no conclusive evidence that they use the site to any significant extent, or that the proposed removal of the trees would have any impact on them. It is possible that there would be some disturbance to their activities during the construction period, and mitigation measures would need to be taken, but I find no evidence that the development would result in any long term harm.

44. A more general ecological survey was also carried out for the appellant for that part of the site adjoining the Lade Braes, through which it is proposed to drill to provide a surface water drainage outfall to the Kinness Burn. No signs of protected species such as otter, badger, pine marten and water vole were noted, although there is potential for otters

to rest up along the burn when passing through the area. Although some reservations have been expressed about the impact of drilling operations on tree roots in this area, the appellant's arboricultural consultant and the council's tree officer have both indicated that it should be possible to carry out drilling below root level.

45. All told, I conclude that, subject to appropriate mitigation measures, the development would not have a significant adverse impact on the natural heritage interests of the area. It would therefore not conflict with the requirements of FIFEplan policy 13 which seeks to protect natural heritage assets.

Impact on the conservation area and the setting of listed buildings

46. Policy 14 states that proposals will not be supported where it is considered they will harm or damage the character or special appearance of a conservation area, and its setting having regard to Conservation Area Appraisals and associated management plans; or listed buildings or their setting, including structures or features of special architectural or historic interest. The appeal site lies within the Hepburn Gardens Conservation Area, for which an Appraisal and Management Plan has been prepared. The area was designated in recognition of the townscape value of the late-19th/early-20th century villas which were part of the westward suburban expansion of St Andrews at that time. Because its development took place over a short period of time it was characterised by similar housing types, with Arts and Crafts villas predominating. The Hepburn Gardens Conservation Area Appraisal and Management Plan contains the following summary of the character of the area:

"The main architectural focus of Hepburn Gardens is the area's outstanding villas. Despite the variations and individual character of many buildings, the prevailing Arts & Crafts influence throughout the Conservation Area makes for a distinctive and attractive residential area, set apart by its direct contrast to the burgh architecture of central St Andrews."

47. The existing house on the appeal site is therefore a key part of the character of the area for which it was designated. Although not a listed building, The White House is expressly referred to in the above-mentioned document as one of the "notable properties.....constructed after the turn of the century".

48. For the reasons set out in paragraphs 19-23 above, I have concluded that the proposed development would have a significant adverse impact on the character and appearance of the present house because of the proximity and scale of the new buildings. It would therefore detract from an important building within the conservation area. Whilst it may be the case that the new extensions would only be glimpsed from Hepburn Gardens along the driveway, as suggested by the appellant, I consider that it is not just the wider view that is of importance. I think that the form of development in this case would be inherently at odds with the character of the conservation area, which Policy 14 is seeking to preserve.

49. I recognise that there are alien and intrusive elements in the conservation, as the Conservation Area Appraisal and Management Plan itself acknowledges. I also have noted the more recent examples of modern development on Hepburn Gardens which the appellant has drawn to my attention – the flat-roofed house at no.75a and the new housing in the grounds of the former New Park School. Without commenting on the

appropriateness of those additions, I do not consider that they establish any precedent for the specific form of development proposed in this instance; namely, the erection of large extensions to an existing attractive and significant villa within the conservation area.

50. I therefore conclude that the development would not comply with the requirements of Policy 14 in that it would harm the character of the Hepburn Gardens Conservation Area.

51. The only listed building in the vicinity of the appeal site is Wayside/Easter Wayside (96 Hepburn Gardens), a large Arts & Crafts villa, now subdivided into two houses, which dates from 1902 and was designed by Sir Robert Lorimer. It is located to the north-west of the site. Although there would be some inter-visibility between the listed building and the new development, it would be filtered by the extensive vegetation in the large garden of Easter Wayside. Given that and the distance between the buildings, I am not persuaded that this development would have a significant impact on the setting of the listed building, notwithstanding the views expressed by its occupants and The Lorimer Society.

Conclusions on the development plan

52. As is often the case, this development complies with certain provisions of the development plan but not with others. Thus, I have found no significant conflict with Policies 3 and 13. On the other hand I have concluded that it is not compliant with significant parts of Policies 2, 10 and 14. Although many of the requirements set out in Policy 1 are not directly relevant to the circumstances of this proposal it does not meet all the requirements in Parts B and C of that policy; most notably in terms of its impact on amenity (Policy 10) and on the character of the conservation area (Policy 14).

53. Overall, I consider that the failures to comply with policy – in relation to the scale and form of the development, its impact on the amenity of neighbouring residents, and its adverse effect on the character of the conservation area – are sufficient to outweigh the aspects where it does comply. I therefore conclude that the proposal is not in accordance with the provisions of the development plan. It nevertheless remains for me to consider whether there are any other material considerations which would justify granting planning permission.

Other material considerations

54. Scottish Planning Policy (SPP) contains a presumption in favour of development that contributes to sustainable development and, in paragraph 29, sets out a number of principles which should guide development. Whilst the proposed development would meet some of these, for the reasons I have indicated above, I consider that it would fail others. I agree that it would make efficient use of an existing site and provide a new care home, which would be to the benefit of the health and wellbeing of its occupants. However, on account of its relationship with the existing house, I find that it would not support good design; neither would it protect the historic environment. The appellant has suggested that the development would provide a net economic benefit because of the new jobs created. However, if the proposed care home is to be operated by the Trustees of the William Gibson's Trust, which currently runs Gibson House and which it proposes to vacate, there would be not net increase in employment. Indeed, the appellant's submissions suggest that

fewer people would be employed on this site than at Gibson House, because of its more efficient layout and design.

55. Paragraph 28 of SPP states that its aim is to achieve the right development in the right place. Overall, I find that this proposal would not meet that aim and therefore that it is not supported by SPP.

56. A number of non-statutory guidance documents have been referred to in the appellant's submissions. "Making Fife's Places" emphasises the importance of design and ensuring that all new development satisfies the six essential qualities of successful places, which are set out in SPP: that it should be distinctive, safe and pleasant, welcoming, adaptable, resource efficient, and easy to move around. Whilst I do not doubt that the proposed development would meet most of these objectives, SPP states (in paragraph 41) that distinctive development complements local features to create places with a sense of identity. Because of the fundamentally unsatisfactory relationship between the proposed extensions and the existing house, I do not consider that this aim would be achieved. As I have concluded in paragraph 23 above, the proposal would constitute a visual over-development of the site, which would detract from the character and appearance of the existing house, and from the character of the area. Whilst the supplementary guidance notes that protecting the historic environment is not about preventing change, it states that it should be ensured that changes are appropriate to their location. I do not consider that this aim has been met for the currently proposed development.

57. The appellant has also referred to the St Andrews Design Guidelines, which, although focussed on the town centre conservation area, also deal with the townscape on its main approaches. However, the area covered by the guidelines does not include that part of Hepburn Gardens where the appeal site is located. I therefore find them of no relevance in the context of this development.

58. Hepburn Gardens Conservation Area Appraisal and Management Plan has already been referred to above. I have concluded in paragraph 50 that the development would not comply with the requirements of FIFEplan Policy 14 in that it would harm the character of the Hepburn Gardens Conservation Area. In addition, however, I must also consider the statutory requirement of section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. It is generally held that, where the impact of a development on a conservation area is neutral, it has the effect of preserving the character of the area. In this instance, I have concluded that the effect of the proposed development on the character of the Hepburn Gardens Conservation Area would be negative. It would therefore not preserve that character and would therefore fail the requirement of section 64(1).

59. I have, however, found no adverse effect on the setting of any listed building, in relation to section 59(1) of the above-mentioned Act.

60. This proposal attracted a substantial number of representations, both before the application was considered by the council, and since the appeal was lodged. Five representations supported the development, citing the need for additional care home facilities in St Andrews. In addition, the Trustees of the William Gibson's Trust indicated

that the development would provide them with the opportunity to provide modern facilities which cannot be achieved at Gibson House. I consider that these views are a significant material consideration and that the provision of modern care home facilities in the town would be a worthwhile objective. As I stated in paragraph 13 above, it is not necessary for the appellant to demonstrate that this is the only suitable site for such provision; only that it is suitable in planning terms. However, I have concluded that the currently proposed development is not suitable for the site.

61. Objections to the development were received from some 43 individuals, households and organisations (including the St Andrews Community Council, the Hepburn Gardens Area Residents Association, the Confederation of St Andrews Residents Associations, the St Andrews Preservation Trust and the Lorimer Society). A great many matters were raised, and I have largely covered them above.

Overall conclusion

62. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would justify granting planning permission. Further, I conclude that the failure of the development to meet the requirements of section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended, reinforces the case for the refusal of planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

M D Shiel

Reporter