

## Appeal Decision Notice

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Decision by William M H Patterson, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: P/PPA/250/777
- Site address: Comely Park House, 80 New Row, Dunfermline KY12 7EJ
- Appeal by Crisp Investment Partnership LLP against the decision by Fife Council
- Application for planning permission 07/03559/WFULL dated 31 October 2007, refused by notice dated 28 April 2008
- The development proposed: change of use from class 4 (offices) to class 9 (residential) including the erection of one 2-storey detached dwelling-house and one 4-storey block of flats comprising 11 units and associated ancillary works
- Application drawings supplied with appeal: 405-PL2-03 location plan; 405-PP-10 Rev D, Proposed Site Plan; 405-PL2-11 Rev D Proposed Contextual Elevations; 405-PL2-12 Rev D Proposed Contextual Elevations 2; 405-PL2-13 existing floor plans; 405-PL2-14 proposed floor plans (Comely Park House); 405-PL2-15 Rev D Proposed New Build Flats – Plans and Elevations; 405-PL2-16 Rev D Proposed New Dwelling, Comely Park Lane
- Date of site visit by Reporter: 10 September 2008

Date of appeal decision: 29 October 2008

### Decision

I dismiss the appeal and refuse to grant planning permission.

### Reasoning

1. The proposals divide into three fairly discrete parts: the reconversion of the large villa and its adjacent outbuildings to a single house after a period of use as administrative offices; the building of a detached house in the eastern tongue of the grounds; and the building of a four-storey block of flats at the northern end of the grounds. In principle, since the site is within an existing urban area, planning policy at all levels would favour appropriate development including housing.
2. However, since Comely Park House is a category C(s) listed building, a sundial structure within the grounds is listed in category B and the site is within a conservation area, statutory duties apply to the determination of this appeal under sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. In the Dunfermline and the Coast Local Plan policies reflect these statutory duties. BE8 requires development in conservation areas to make positive contributions to their character and appearance and to be compatible in terms of setting, design, finish, density, scale and



massing. BE10 expects alterations to listed buildings, or development affecting their setting, to preserve features of architectural or historic interest, match or complement the listed buildings, and not detract from their appearance or setting. BE12 requires development affecting listed buildings or their settings not to detract from them, and to have the highest design standards including siting, materials, landscaping and boundary enclosures. These policies also reflect B1 and B2 in the Fife Structure Plan. In the local plan the more general design policy BE3 includes criterion (a) *maximising the contribution of any existing site features, in particular ... trees ...*

3. The determining issues in this appeal are therefore whether, taken separately, the proposals for the reversion of the existing buildings to housing, for the new detached house and for the block of flats would match up to the criteria set out in the policies and to a large extent backed by statute; and, if not, whether other material considerations should prevail in favour of the proposals.
4. A good part of the disagreement in the written submissions is about the definition of areas of relatively consistent character within the designated outstanding conservation area that covers much of central Dunfermline. It would clearly advance the case for the appeal greatly if the area of mixed ages, styles, scales and materials of building, generally to the west of New Row and north of Park Avenue towards the commercial centre of Dunfermline, could validly be regarded as extending to the east of New Row to include the appeal site. In this scenario New Row itself would be the spine along both sides of which an area of higher density and more mixed character would be defined. This has a degree of logic, but defies the much greater coherence of the area east of New Road and including Park Avenue and Comely Park. This is characterised by 19th century villas in generous grounds and retains much of the character of a residential area for the most prosperous 19th century burgesses, despite some not very sensitive physical alterations and the lessening of residential ambience that has accompanied some changes of original houses to institutional and commercial uses. It is notable that illustrations in the 'New Row Character Appraisal' section of the appeal submissions, that include the western part of Park Avenue, give prominence to a bulky box dormer at no. 2 which might appear to imply continuity of character with buildings on the other side of New Row, but is actually incongruous and uncharacteristic within Park Avenue as a whole.
5. The high boundary wall which is a feature of the northern part of the New Row frontage of the appeal property, and is carried round into Park Avenue, accordingly acts as both a visual and a symbolic boundary between New Row and the area of villas. This area makes a valuable and distinctive contribution to the quality of the conservation area and to the image of Dunfermline as a historic small city – a similar contribution, though on a smaller scale, to the King's Park area of Stirling which may be familiar to readers of this notice. At the same time the area is clearly vulnerable to further changes that would erode rather than protect remaining character as an enclave of substantial villas.
6. The return to residential use of the existing villa, a late 18th century house much altered and enlarged in the following century, would be consistent with and would tend to reinforce the area's character, and this element of the proposals is not controversial. However, as no elevations of changes to the main building and outbuildings, indicated on the plan drawings, are included with the application drawings forwarded for the appeal, it

would be impossible to make a judgement as to how well the changes would match the design requirements of development plan policies and section 59.

7. The eastern tongue of the site along the north side of Comely Park Lane, within which it is proposed to build a detached house, is largely open grass and divided by almost continuous hedging from the large open part of the grounds directly south of the house and outbuildings. Accordingly it offers obvious attractions for insertion of a new house in what is already almost a self-contained plot. The proposal is for a large five-bedroom, nine-apartment building on two floors, separated by an access forecourt from a detached double garage at the eastern extremity of the plot. Areas of green space would be limited to a patch between the house and the forecourt and relatively shallow strips along the northern, western and the western part of southern boundaries. This comparatively cramped layout around such a large house would not reflect the spacious character of this part of the conservation area, whereas a more modest house might have done so. The elevation drawing does not indicate the proposed materials, nor does the application form, though the elevations include panels of symbolic stonework and other material with the appeal refers to slate roofing; whereas correspondence mostly refers to 'reconstituted stone' as an intended material, though the key for the elevation drawing for the flats merely refers to 'stone'. Other parts of the elevations for the house indicate white and yellowish finishes.

8. It seems rather strange that appeal submissions have criticised a block of flats on the west side of New Row, farther south, for a 'pastiche' character, when fault may easily be found with them as ungainly or overbearing but it would be difficult to guess of what style or period they were accused of being a pastiche; while the proposed new house at the appeal site has obvious 'pastiche' Victorian elements such as a gable and dormers with finials, mixed with common later 20th century features such as broad window openings and a flat-roofed single-storey element, on the main southern elevation, with a roof designed as a terrace for sitting out. Even if real sandstone and not one of the usual less than realistic substitutes were used for the stone panels, the uneasy mix of materials and styles would not contribute positively to the appearance and character of the conservation area. The effects on the setting of listed buildings and on the conservation area would not accord with structure plan policies B1 and B2 or local plan policies BE8, BE10 and BE12, and would also have to be unfavourably assessed under the statutory duties.

9. There is a further strong concern about the proposed house, namely with regard to its siting. It is unfortunate, and not best practice for a site in such a context, that the layout drawings show trees only in stylised form, not from measurement. A beech tree just west of the hedge that divides the proposed house plot from the rest of the appeal site is the single most impressive landmark within the site, seen from the surrounding area, including farther up the brae of New Road to the north. It is a massive and imposing specimen but still in full vigour, to judge from the thickness of its foliage in early September. Its canopy spread is much larger than the stylised tree shape on the layout drawings, where it is shown by the same symbol as a much lesser beech just to the north of the proposed plot. At the site inspection it was evident that the canopy spread is very nearly to where the west wall of the house would be placed, and that if the tree were to fall eastwards in a storm it would cause massive damage to the house. Accordingly safety concerns for occupants of the house would be impossible to dismiss, and it has to be assumed that the building of the house would be likely to lead to the removal of this magnificent tree. This implied threat to

the tree, even on the assumption that excavations for the house would not affect the water table or significantly interfere with the tree's roots, would be against the intentions of local plan policy BE3(a) and adds to the other policy objections already explained.

10. It is noted in this regard that the council's Parks Development Co-ordinator does not appear to have been aware that this was a detailed application with fixed siting of buildings, in commenting: "The mature trees in this location play a significant part in the visual amenity of the area and it would be expected that all the mature trees would be retained and the location of the proposed buildings would not have a detrimental [e]ffect on their health nor necessitate their premature removal. It would be imperative that prior to any approval being granted the location of the new build properties is closely controlled in relation to the mature trees. I understand this area falls within the Dunfermline conservation area and therefore the trees within this development will be protected."

11. The proposed block of flats at the northern end of the appeal site would be of a more consistently modern design, though with 'stone' panels on the long northern and short eastern and western elevations. With its use of darker materials for the top floor and neat modern rectangular proportions, it could be described as another variation of a formula used for several blocks of flats in conservation areas in Edinburgh, illustrated in the appeal submissions. However, that the designs are creditable examples of a modern idiom and have been accepted in Edinburgh conservation areas has scarcely any bearing on how a four-storey block of flats would affect the particular character of the distinct villa enclave east of New Row.

12. Although the footprint and maximum height of the building would not be of a different order of magnitude from some of the stately villas and semi-detached pairs in the area, the more monolithic bulk and height, the obviously lower storey heights and the communal parking area in the eastern part of the plot, seen from Park Avenue through a new gated breach in the tall boundary wall, would have the effect of an overspill of high density, less visually coherent character from west of New Row into the villa area. This could not but erode its distinctive and vital contribution to the conservation area as a whole, besides the setting of Comely Park House as a villa in large grounds.

13. Whilst the northern part of the appeal site is far enough from Comely Park House to have potential for some new housing without significantly affecting the listed building's setting or the character of the conservation area, that proviso is not met by a four-storey block of 11 flats as proposed. Accordingly this element of the proposal must draw the same policy objections and the same adverse findings with regard to the statutory duties, as the detached house, with the exception of policy BE3(a).

14. There are no other matters in the appeal papers that singly or together could both contradict and outweigh the adverse findings set out above. These matters include the November 2007 report on the 'Royal Dunfermline Project Update' which is not part of the development plan and has no clear relationship with it to suggest a status as supplementary planning guidance; the officers' recommendation to grant conditional planning permission; that both new-builds would be partly screened from public view; matters of access and traffic; National Planning Policy Guideline 18, Planning Advice Note 71 and the Memorandum of Guidance on Listed Buildings and Conservation Areas;

and the suggestion that the new-build elements would enable the restoration of the listed structures on the site, which is not substantiated by any evidence within the submissions. Although the change of use element is not controversial, the application is so clearly intended as a single overall scheme that it would serve no purpose to grant planning permission for the change of use alone. The matters dealt with in this notice do not cover those in the related listed building consent appeal, P/LBA/250/58, which is the subject of a separate decision notice.

***This is the version issued to parties on 29 October 2008***

W M H PATTERSON  
Reporter

DPEA as issued to parties