



Decision by Rob Huntley, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2218
- Site address: Land to the rear of Ross House, 14 Ardross Street, Inverness IV3 5NS
- Appeal by B & L Properties Limited against the decision by the Highland Council
- Application for planning permission 19/02069/FUL dated 8 May 2019 refused by notice dated 13 August 2019
- The development proposed: erection of 8 new mews style serviced apartments
- Date of site visit by Reporter: 5 December 2019

Date of appeal decision: 14 January 2020

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matters

1. When initially submitted, the development described in the application comprised 10 serviced apartments. Revisions to the application made prior to the council's determination of it reduced the number of apartments proposed to 8. My consideration of this appeal has therefore been on the basis of the revised description of the development, as decided by the council.
2. Drawing number 009 Rev C was included among the documents the appellant submitted with this appeal, whereas the council advises that its decision was on the basis of the revision B version of that drawing. There appears to be no difference in the nature or detail of the development illustrated on the B and C revisions of that drawing, with the only change being to the origin of the diagonal line annotated on the drawings showing a 25 degree "height of sun" line. On version B this is taken from a point 2 metres above ground level whereas the equivalent line on version C has its origin somewhat lower, at the centre of the ground floor window of the Ardross Place house. As the appellant comments, the representation on the revision C drawing illustrates a more onerous test than that on version B and does not alter my assessment of the effect of the proposed development in terms of light.

Reasoning

3. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan consists of the Highland-wide Local Development Plan (2012), the Inner Moray Firth Local Development



Plan (2015) and the Inverness City Centre Development Brief (adopted as supplementary guidance in 2018). No provisions of the Inner Moray Firth plan have been specifically drawn to my attention and my consideration of this appeal therefore focusses on those of the Highland-wide plan.

4. The appeal site forms part of the curtilage of Ross House, a building listed as being of special architectural or historic interest, and it also lies within the Inverness Riverside Conservation Area. In such circumstances I am required to pay special regard to the desirability of preserving the listed building or its setting and any special features of historic or architectural interest which it possesses, and to the preservation or enhancement of the character of the conservation area. I also note the proximity of other listed buildings, including numbers 13 and 15 Ardross Street and Inverness Cathedral a short distance to the east.

5. Having regard to the above, the main issues in this appeal are the effect of the proposed development on;

- the setting of the listed Ross House and other listed buildings nearby;
- the character of the conservation area; and
- the amenity enjoyed by occupants of nearby properties in Ardross Place, with particular regard to light and outlook.

The settings of listed buildings

6. I noted during my site inspection that extensive works were underway at Ross House. I understand these to be in implementation of planning permission and listed building consent granted for the conversion of that building from its former office use to provide 8 serviced apartments. The appeal development would not involve any works to Ross House itself and would therefore not have any direct effect on the fabric of that building.

7. The appeal proposal would involve the construction of a building across much of the rear of the site, hard up against the boundary of the site with Ardross Place. This part of the proposed development would incorporate 2 floors beneath a pitched-roof, providing 8 serviced apartments intended for short term (mainly holiday) letting. It would be attached to and partially incorporate the 2-metre high rendered stone wall which forms the boundary of the appeal site with Ardross Place. Accordingly, an application for listed building consent was required to be submitted. Listed building consent was granted by the council in this regard (application reference 19/02215/LBC), notwithstanding its refusal of the application for planning permission which is the subject of this appeal. The officer's report on that listed building application explained that the impact on the setting of Ross House was a matter addressed in the context of the parallel application for planning permission, which is now the subject of this appeal. I therefore disagree with the appellant's contention that the granting of listed building consent is to be taken as confirmation that the proposed development would not have an adverse effect on the setting of Ross House.

9. The spaces between Ross House and the rear boundary of the site, adjacent to Ardross Place, and that separating Ross House from number 13 Ardross Street to the east, are significant elements of the setting of this Victorian villa. This relatively spacious arrangement distinguishes Ross House from nearby buildings on the north side of Ardross

Street which are generally less imposing, with those to the east forming terraces of attached buildings in narrower plots.

10. I accept that the removal of the existing, somewhat boxy and unsightly, single storey building in the north-eastern part of the overall appeal site, as proposed, would have a positive effect on the setting of Ross House. However, the introduction of a 2-storey pitched roof structure extending over much of the width of the rear part of the site between the main building and the Ardross Place boundary, would significantly and inappropriately erode the space to the north of Ross House, adversely affecting the setting of the listed building.

11. I note that comments made at application stage by the council's historic environment team draw attention to the absence of mews development or substantial outbuildings in the vicinity and that the proposal would have a much more extensive footprint than a typical historic outbuilding associated with a building the size of Ross House. I agree with those representations. For all these reasons, I find that the proposed development would fail to preserve the setting of Ross House. For the same reasons, there would be conflict with policy 57 of the Highland-wide Local Development Plan, which seeks to safeguard heritage resources, including their settings. The appeal proposal would also conflict with aspects of policies 28 and 29 of the same plan, which seek respectively to avoid harm to cultural resources and have regard to the historic pattern of development in the locality. However, because of their greater separation from the proposed development, there would be no adverse effect on the settings of numbers 13 or 15 Ardross Street or the cathedral.

Character of the conservation area

12. The proposed building would be visible in views northward across the car parking area from the vicinity of the Ardross Street access to the site. However, with the proposed building being sited towards the rear of the Ross House curtilage, it would not be prominent in views from or along Ardross Street. I therefore find that there would be no adverse effect on the character of the conservation area as perceived from Ardross Street.

13. Ardross Place, to the rear of the site, is a narrow street with a carriageway width of around 3.6 metres. Taking account of the narrow footway and short front gardens, there would be an overall separating distance of around 6.6 metres between the north-facing façade of the proposed development (incorporating the existing boundary wall), and the south-facing front walls and living room windows of the Ardross Place houses. Although the existing "boxy" flat roofed building in the north-east corner of the appeal site rises significantly above the boundary wall, the visually enclosing effect of this is limited as the length of that building extends to a distance of only around 8.5 metres along Ardross Place. By contrast, the proposed two-storey pitched roof building would extend for some 30 metres overall along the Ardross Place frontage, abutting the boundary wall.

14. With the ridge of the proposed building being parallel to Ardross Place, the highest part of the roof would be set a little more than 3 metres in from the site boundary (and thereby around 10 metres from the façade of the Ardross Place houses). I appreciate that 2 gaps, each a little over 1 metre wide, would be incorporated in the roofline of the proposed building. However, this would not significantly diminish the enclosing effect that the proposed building would give rise to, in views from and along Ardross Place, and from

the existing single and 2-storey houses opposite. The introduction of this additional enclosing effect would be a cause of significant and detrimental change to the character of this part of the conservation area.

15. During my site inspection, I observed a number of instances of outbuildings ancillary to, or within the curtilages of, properties facing Ardross Street, to the east and west of the appeal site. Consistent with the comments of the councils historic environment team mentioned above, I noted that these are generally small in scale and not prominent in views from Ardross Place. They do not have a significant effect on the character of this part of the conservation area. Towards its western end, close to its junction with Tomnahurich Street (A82), larger scale buildings flank both sides of Ardross Place giving rise to a more enclosed character. However, this occurs over a short length of the street providing a transition to the wholly different character of the western fringe of the conservation area associated with the A82 major thoroughfare.

16. The central part of Ardross Place, in the vicinity of the appeal proposal, exhibits a more open character distinct from that apparent at its western end. The introduction of a 2-storey pitched roof structure extending over much of the width of the rear part of the site abutting the Ardross Place boundary, would significantly and inappropriately alter the character of this part of the conservation area, which would not thereby be preserved. In addition to being inconsistent with the statutory duty to which I have drawn attention above, there would be a failure to safeguard heritage resources and the historic pattern of development. These would be further examples of conflict with policies 28, 29 and 57 of the Highland-wide Local Development Plan.

Ardross Place - light and outlook

17. Drawing number 009 includes annotations seeking to illustrate the effect of the proposed development on sunlight incident at the front façades of the houses facing Ardross Place. These include a line at an angle of 25 degrees to the horizontal drawn from the ground floor windows of the Ardross Place houses towards the appeal site. In revision B of that drawing, this line is drawn from a height of 2 metres above ground level, whereas on revision C (which postdates the council's decision on the appeal application), the origin is taken at a slightly lower level, at the mid-point of the window. In addition, the drawings present height of sun lines, touching the level of the eaves of the proposed building and angled towards the mid-summer and mid-winter zenith of the sun, at 52 and 12 degrees from the horizontal, respectively.

18. The 25 degree line shown on the drawings is a reflection of the “rule of thumb” relating to sunlight referred to in the BRE publication “Site layout planning for daylight and sunlight: A guide to good practice”. The officer's report, which recommended approval of the appeal application concluded that “...the development does not cause any overshadowing.” The appellant relies on that assertion in support of this appeal but has presented no detailed analysis of the effect of the proposed development on sunlight. In both the appellant's case and the officer's report to the committee it appears to be suggested that, as the proposed building would not obstruct the 25 degree rule of thumb line, that is to be taken as confirmation that the proposed development would not give rise to overshadowing. I am not satisfied that this is an accurate representation of the position that would arise with the proposed development.

19. Although conditions were partially overcast during my mid-morning early December site inspection, I was able to observe the degree of overshadowing currently experienced in Ardross Place and of the houses facing it on its north side. This arises from a combination of the 2 metre high wall along the appeal site boundary, and from the taller but more distant buildings fronting Ardross Street, including Ross House. The proposed building would not project above the 25 degree rule of thumb line presented on drawing 009 (either the revision B or C versions of it), and I note that this line is also a close approximation of a line from the tallest part of the roof of Ross House to the ground floor windows of the Ardross Place houses. However, this consideration alone does not enable a full appreciation to be gained of the overshadowing effect of the proposed development.

20. The BRE document lays considerable emphasis on the desirability of ensuring access to sunlight, particularly in homes. It explains that the sun is seen as providing light and warmth, making rooms look bright and cheerful, and also having a health-giving effect. It notes that people are particularly likely to notice a loss of sunlight to their homes, and to resent such loss if it is extensive. In this regard, the document comments that where sunlight hours would be reduced to less than 0.8 times their former value, this will be noticeable by occupants, with affected rooms appearing colder, and less cheerful and pleasant. I have been presented with no detailed assessment of the extent to which sunlight hours would be affected by the proposed development. In any event, I note that the guidelines set out in the BRE publication are purely advisory. Whereas infringement of the 25 degree rule of thumb is an indication that obstruction to sunlight may be an issue in a particular case, the reverse is not the case. I do not consider that the absence of infringement of the 25 degree line can be taken as confirming that no issue in terms of sunlighting arises in this case, still less that no overshadowing would be caused.

21. The rear wall of the proposed development would rise to around 4.5 metres on the "site" side of the existing boundary wall, extending over a length of nearly 30 metres. Around 3 metres further into the site, the proposed ridge would rise to around 6 metres. Although there would be 2 narrow gaps in the roofline, the proposed building would cause a substantially greater degree of overshadowing of the façades of the Ardross Place houses, including their ground floor windows, than is currently caused by the approximately 2 metre high boundary wall and the mass of Ross House. At present, during the morning and afternoon periods, sunlight is received at the Ardross Place houses around the sides of Ross House. The timing of my site inspection enabled me to conclude that, during the winter months with lower sun angles, such sunlight would be obstructed to a significantly greater extent than at present by the taller mass of the proposed building, including its roofline.

22. I note the council's comments concerning what it regards as discrepancies in the illustration of the proposed development on the submitted drawings. However, taking the submitted drawings at face value, I conclude that the proposed development would be unacceptably harmful to the residential amenity of the occupants of the houses in Ardross Place to the north. This would arise particularly by reason of the obstruction to sunlight that would be caused, especially in the winter months when sunlight is inevitably more restricted and therefore more greatly valued. For all the above reasons I conclude that there would be conflict with bullet point 7 of policy 28 (sustainable design) of the Highland-wide Local

Development Plan, which requires development proposals to be assessed in terms of their effect on individual and community residential amenity.

Other matters

23. Several representations made at application stage, and in response to this appeal, express the view that the proposed 9 car parking spaces would not be adequate to serve the total of 16 serviced apartments that would be present on the site overall (including the 8 being provided in Ross House), if the appeal development were to proceed. I note that the council accepts that its adopted car parking standards would not be met in this regard, but considers that a financial contribution in accordance with its developer contributions guidance would address this aspect. In view of the availability of public car parks in the vicinity, to which the appellant has drawn attention, and taking account of the short-term nature of the likely occupation of the proposed serviced apartments, I find that the shortfall in on-site car parking provision would not be such as to warrant refusal of planning permission for that reason. Had I been minded to allow the appeal, a financial contribution as sought by the council could have been secured by means of a planning obligation under section 75 of the Planning Act.

24. I accept, as the appellant explains, that in general terms the proposed development would accord with the policy encouragement of the provision of additional tourist-related residential accommodation given by policy 44 of Highland-wide Local Development Plan and with the similar encouragement expressed in The City Centre Development Brief. I accept that, both during the construction stage and in subsequent on-going use, the appeal development would have positive economic effects. It would thereby contribute positively in relation to some of the matters identified in paragraphs 28 and 29 of Scottish Planning Policy. However, overall I find that the appeal proposal would not contribute to sustainable development.

Overall conclusion

25. Notwithstanding my positive findings on some aspects of the proposed development, these do not outweigh the harm that I have found would be caused to the setting of the listed Ross House and to the character of the Inverness Riverside Conservation Area. Nor would any economic or other benefits outweigh these adverse effects, or the harm I have found would be caused in terms of light to the nearby Ardross Place properties. Overall, I find that the proposed development would conflict with aspects of policies 28, 29 and 57 of the Highland-wide Local Development Plan.

26. 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 still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Rob Huntley

Reporter