

Applicant statement

Appeal following East Lothian Council's Refusal of Planning Permission of Application No.18/00591/P

We attach the Arboriculturist, Donald Rodger,s , supporting statement in response to the Landscape Officer's criticisms of his 'Arboricultural Impact Assessment' and to compliance with BS.5837:2012 in particular. The Landscape Officer's report challenges the professional competence and integrity of the Arboriculturist and as such it was incumbent on the Landscape Officer to make absolutely sure that everything in her report was factually accurate and based on a detailed knowledge of site conditions. As can be seen from Donald Rodger's statement her Report is neither of these.

It is very disappointing that our application, which has been supported and approved by every other Council department and has received no objections from either the local or wider Community, has been refused on the basis of a fundamentally flawed report by the Landscape Officer.

We are confident that our Application complies completely with BS.5837:2012 and with Council Policies DP7, DP14 and NH5 and we are also confident that this will be apparent to the Review Body on their visit to the site.

Mr C. Herd

**Appeal following East Lothian Council's Refusal of Consent
for a single Dwelling House
Appln. no. 18/00591/P**

at

**Craigour
Broadgait
Gullane
EH31 2DH**

Supporting Statement in Relation to Arboricultural Matters

by

**Donald Rodger BSc(Hons)For, DMS, FICFor, FArborA, CBiol, MRSB, CEnv
Registered Consultant of the Arboricultural Association**

1. Background

- 1.1. This statement has been prepared in relation to the refusal of planning permission for a single dwelling house in the grounds of Craigour, Broadgait, Gullane (Appln. no. 18/00591/P). It specifically addresses the tree issues pertaining to the appeal.
- 1.2. I am a Chartered Forester and qualified arboricultural consultant with some 30 years experience in tree management. My particular area of expertise is in trees in the planning process and in relation to development. I have been engaged by the appellants, Mr and Mrs Herd, since February 2015 to provide advice on the care and management of the trees within their property and in respect of the development proposal.
- 1.3. I was commissioned to undertake a full and detailed survey of the established trees within the garden and have prepared an Arboricultural Implication Assessment report to support the application for a new house. This document clearly assesses the impact on the extant tree cover and sets out recommendations regarding tree removal, retention, protection and planting.
- 1.4. I have worked closely with the applicant and his architect on this project for some three years. The proposals have undergone various iterations in that time in order to accommodate feedback from the council and to achieve a sensitive and sympathetic solution on this site, and one which takes due account of the tree cover. From the outset it has been our strategy to engage openly and honestly with council officers to achieve such an outcome, and many concessions have been made on the applicants' part as a result. However, a lack of willingness on the part of council officers to visit the site or positively engage in constructive discussion has proved unhelpful.
- 1.5. The application has been refused solely on the grounds of tree and landscape issues. These are itemised at length by the Council's Landscape Officer (LO) in the Officer Report dated 26 July 2018. This statement addresses these issues. In doing so, I have attempted to group the somewhat disparate and disjointed points raised by the LO into broad subject areas.

2. British Standard 5837:2012

- 2.1. This standard is recognised as industry best practice with regard to trees in relation to development. It is not a statutory document, nor is it prescriptive. It's stated purpose is to provide recommendations and guidance on the relationship between trees and design, demolition and construction processes. In preparing my report in support of this project, I have adhered to the contents of this key benchmark document. This effectively underpins my approach to this project and the recommendations I have made. I can confirm that my recommendations are consistent with BS 5837:2012, despite repeated assertions by the LO to the contrary.

3. Tree Removal

- 3.1. Four trees have been removed from the site (identified as 617, 618, 619 and 620 in my tree survey). These were in a very poor and potentially hazardous condition and were removed on the grounds of safety and sound arboricultural management. Despite their obvious poor condition, these trees were included in a Tree Preservation Order made by ELC (G1 of TPO 132). The council accepted that the trees should be removed and this work was undertaken with the pre-requisite consent under the terms of the TPO.
- 3.2. The application which is the subject of this appeal seeks to remove only two trees (numbers 621 and 622 in my report). These are specimens of purple cherry plum and Himalayan birch respectively. Both the trees, which stand as a close pair, are of relatively small size and stature. The LO supports the removal of the plum tree 621, subject to the planting of a replacement tree.
- 3.3. This essentially leaves a single birch tree (622), which the LO maintains must be retained on the grounds that it has "significant visual amenity value" and "contributes to the visual amenity of G1" of the TPO. This assessment is disputed in that the visual amenity value of this tree is grossly over-exaggerated. The tree is a small, relatively young specimen which stands within the main body of the site. It is not visible from any public vantage point outwith the site, save for a fleeting glimpse through the gate on Broadgait. It is screened from public view by larger and more established trees along the west and east boundaries and as such makes no significant contribution to the visual amenity of the locality. The removal of this tree would not be noticed by anyone outwith the subject site. In my opinion the removal of tree 622 to facilitate the development will not adversely impact on the visual amenity of the area.
- 3.4. It is pertinent to note that the LO has dramatically changed her stance on tree 622. In an e mail to the Planning Officer (Stephanie Greaves) dated 26 February 2015, the LO had "no objection" to the removal of tree 622 at that time (along with others in the 'C' and 'U' retention categories). A surprising reversal of opinion over a relatively short period of time.

4. Tree Planting

- 4.1. Three trees have been planted to replace trees 617, 619 and 620, of a species specified by the LO (a small-leaved lime and two silver birch). The replacement lime tree has been planted as close as possible to the position of the copper beech 619, as specified by the LO. The two silver birch have been located along the southern boundary of the site and have established well. A new beech hedge has also been established to define the plot boundary and a semi-mature cherry and rowan tree planted nearby in the grounds of Craigour.
- 4.2. It is proposed to plant a new copper beech to replace tree 618 and a birch and rowan to replace trees 621 and 622. The applicant has clearly demonstrated a

desire and willingness to plant trees to enhance the site. Ultimately, a total of six trees will have been removed from the site and six new specimen trees planted. As such, there will be no net loss of tree cover within the garden. A new generation of trees suited to the site and setting will provide long term continuity of tree cover, while creating an attractive and sustainable treescape.

- 4.3. The replacement trees are located along the south and east boundaries of the site, where they will have maximum impact in terms of visual amenity. This will also reinforce and enhance the screening and shelter to the property, and create a secluded and self-contained plot for the proposed dwelling. The dominant belt of established trees adjacent to Broadgait will be retained and these will continue to provide the dominant landscape feature.
- 4.4. Tree 618 will be replaced with a copper beech on the site of the original tree, as requested by the LO. It is proposed to utilise a variety with a compact and upright crown form which would be better suited to the scale and setting of the garden. The LO asserts that this type of beech would be "wholly out of keeping" and unacceptable. I do not support this opinion. The type of beech that I propose is entirely appropriate for this specific site, providing an attractive feature with height and scale, while still permitting the use of this part of the garden.

5. Formation of Driveway for Plot

- 5.1. The LO raises a number of technical issues pertaining to the construction of the driveway to the proposed new plot. These are addressed below.
- 5.2. Concern is raised by the LO regarding the formation of the drive between trees 611 and 612 and the proposed ground excavation to accommodate the cellweb. Given observations on site, I am of the opinion that carefully lowering the soil level by 200mm would not be to the detriment of the above trees. This work would be carried out under my supervision to ensure the underlying root system is not compromised. Section 7.2.1 of BS5837:2012 allows for such an approach.
- 5.3. Notwithstanding this, should significant trees roots be encountered, then there exists the option to build up the levels of the driveway, thereby minimising the depth of excavation. Either way, this is a technical issue which could readily be resolved.
- 5.4. The LO suggests that it is likely that vehicles using the proposed parking and turning area for the plot between trees 611 and 612 would over-run the edge of the cellweb, to the detriment of the trees. This is pure conjecture. The drive layout has been designed to take account of anticipated vehicle movements. If it transpires as the project progresses that there needs to be a slight modification or localised extension to the drive, then this can readily be addressed.
- 5.5. The LO posits that the formation of a 2m 'hard-surface' apron at the existing drive, as specified by the Council's Highway Department, will adversely impact on tree

613. It is pertinent to note that much of this area is already under a hard tarmac surface, and that there have been regular traffic movements over the entrance for the last century. Carefully extending this to meet highway requirements is unlikely to result in any adverse impact on this tree given the previous history. The use of a porous monoblock surface, as proposed, may indeed be beneficial to tree 613 in the long term in that it will permit improved exchange of water and oxygen to the underlying root system. I do not, therefore, agree with the LO's position on this.

6. Formation of Driveway for Craigour

6.1. It is proposed to form a new short section of drive to provide access to Craigour off Broadgait. This will require the removal of some 5m of overgrown hedging and shrubs. This growth is not subject to any statutory protection and the owners may manage this as they see fit, regardless of the application. Existing established trees are to be retained either side of this. The new drive falls outwith the RPA of the adjacent trees (603 to 606), which will not be affected by the proposal. I agree with the LO's view that the removal of this growth "...would not be harmful to the character and appearance of the area." (although she appears to contradict herself on this point in her concluding paragraphs).

6.2. The LO suggests that the formation of the new drive will be to the detriment of tree 608, which stands on the edge of the lawn more or less opposite it. This is not the case. The existing driveway serving Craigour is to be retained as existing, and as such this will not make any difference to this tree. There is only a very marginal overlap of this tree's RPA with the edge of the proposed new drive where this joins the existing driveway. In reality, the root system of tree 608 is most likely to be into the lawn area, where conditions are optimal, and not under the compacted driveway. This is not significant in my opinion and will not adversely impact on this tree. Contrary to the LO's assertion, I did consider the potential impact of the new drive on this tree.

6.3. The new access to serve Craigour could therefore be constructed without any impact on the adjacent trees, and without any detriment to the local landscape character. This is clearly stated on page 16 of my report and would be evident from a cursory site visit.

7. Tree Protection Measures

7.1. The LO is incorrect in her assertion that the proposed house is located only 1m away from the RPA of tree 623. There does, in fact, exist a clear separation of 1.5m, as clearly indicated on the architect's drawing no. PAL(0)100 submitted with the application. This was designed in such a way as to specifically address an earlier suggestion made by the LO. The clear separation between the RPA and the building allows for adequate space for access and scaffolding erection. There will be no incursion into the RPA of tree 623 and the layout has been specifically designed to ensure this.

8. Services and Construction Access

- 8.1. Concern is raised by the LO regarding adequate access for construction vehicles and plant. The application is for a single dwelling and as such no large-scale vehicles or material deliveries are envisaged. The project team is aware of the restrictions imposed by the trees in this respect and will employ suitable means of access and delivery. This may involve using small scale machinery and plant, and bringing materials into the site in small loads. This aspect can readily be addressed by appropriate planning and site management.
- 8.2. The new section of cellweb driveway would be laid early on in the build programme and this will subsequently provide suitable access for construction traffic into the site. There also exists adequate overhead height clearance from the adjacent trees. No pruning work is envisaged to the trees, and these will be worked around.
- 8.3. The proposed moling of services into the site is a specialist operation that involves minimal disruption, and will not adversely impact on the trees. The plant involved will be of small scale and suitable to gain access into the site via the new cellweb drive. There exists adequate overhead height clearance. This operation will be carefully planned and monitored.

9. Dwelling in Relation to Trees

- 9.1. The proposed dwelling is located in an open plot at a suitable and sustainable distance from nearby existing trees and vegetation. The suggestion by the LO that trees will come under increasing pressure for pruning or removal by future owners is purely speculative. There will exist a suitable juxtaposition between trees and the dwelling such that future tree removal or pruning will not be necessary. Should any future tree management be necessary (which is inevitable on any treed site) then this can only be undertaken under the auspices of the council. The trees are the subject to a TPO, and the council will effectively have control over what happens to them in the future. I find the LO's assertion on this matter unfounded.
- 9.2. The LO makes similar claims regarding the area of usable garden ground, in that trees will result in excessive shading. I have visited this site on several occasions at different times of year, and found it to be light and open, despite being largely enclosed by trees. I see no reason why a garden could not be established and maintained, and for the residents to enjoy an acceptable level of sunshine and daylight.
- 9.3. In short, I disagree with the LO's assessment on this matter. I do not envisage any undue pressure for tree removal or pruning. In any event, the trees are subject to a TPO and a high level of statutory protection.

10. Conclusion

- 10.1. In conclusion, and to address the specific Reasons For Refusal as outlined in the decision notice, I make the following comment.
- 10.2. The proposal essentially requires the removal of a single, semi-mature birch tree (622). The removal of this one tree, which is barely visible from outwith the site, will not have a detrimental impact on the landscape character and appearance of the area.
- 10.3. The application will not result in a loss of trees. All trees that have been or are proposed to be removed will be replaced with new specimens. Comprising species more suited to the scale and size of the property, these will make a positive contribution to the landscape and amenity of the area and uphold the integrity of the TPO. In the planting process, attention has been focussed on creating a robust edge to the plot, where new trees will have maximum public benefit while creating a sheltered and secluded plot for the proposed dwelling. The wooded façade on Broadgait and on the public footpath to the east will be maintained, protected and managed, thereby preserving the landscape character of the locality.
- 10.4. The proposal can be built as proposed without detriment to the retained trees. A detailed tree management and protection plan has been prepared which addresses this issue, and I have been retained as the project arboriculturalist to oversee and supervise its contents. The proposals put forward regarding tree protection and driveway construction are consistent with current standards and best industry practice. The retained trees will not be adversely impacted by the proposals.
- 10.5. The house and the garden will not be excessively shaded. As such, there will not be any pressure for future tree removal.

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