

# Public Document Pack



To: Councillor Milne, Convener; Councillor Finlayson, Vice Convener; and Councillors Boulton, Cooney, Corall, Cormie, Donnelly, Greig, Hutchison, Jaffrey, Lawrence, Malik, Jean Morrison MBE, Nicoll, Sandy Stuart, Jennifer Stewart and Thomson.

Town House,  
ABERDEEN 21 April 2016

## **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE (VISITS)**

The Members of the **PLANNING DEVELOPMENT MANAGEMENT COMMITTEE (VISITS)** are requested to meet in on **THURSDAY, 28 APRIL 2016 at 9.30 am.**

FRASER BELL  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

### **B U S I N E S S**

#### **WHERE THE RECOMMENDATION IS ONE OF APPROVAL**

- 1 94 Queens Road - Change of Use from Residential to Class 4 Offices with Extended Car Parking to Rear - 151795 (Pages 3 - 18)

#### **WHERE THE RECOMMENDATION IS ONE OF REFUSAL**

- 2 22 Kinaldie Crescent - Sub-division of Residential Curtilage and Erection of New Dwellinghouse and Associated Works - 150311 (Pages 19 - 30)

- Note: (One) The Planning Officials in attendance on the visits can be contacted by mobile phone, the number is:- 07802 323986.
- (Two) The transport for the visits will depart the Town House from the Broad Street entrance at 9.30 prompt.

Should you require any further information about this agenda, please contact Lynsey McBain on 01224 522123 or email [lymcbain@aberdeencity.gov.uk](mailto:lymcbain@aberdeencity.gov.uk)

# Agenda Item 1

## Planning Development Management Committee

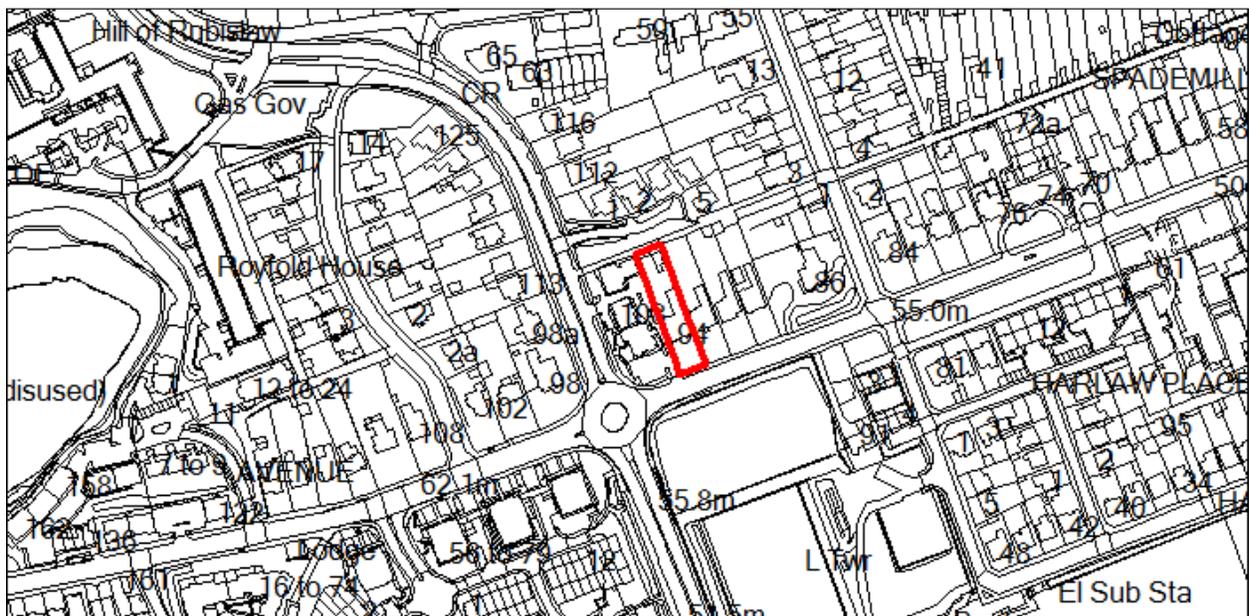
94 QUEEN'S ROAD, ABERDEEN

CHANGE OF USE FROM RESIDENTIAL TO  
CLASS 4 OFFICES EXTENDED CAR PARKING  
TO REAR.

For: Monden Offshore Services

Application Type : Detailed Planning Permission  
Application Ref. : P151795  
Application Date: 12/11/2015  
Officer: Paul Williamson  
Ward : Hazlehead/Ashley/Queens Cross(M  
Greig/J Stewart/R Thomson/J Corall)

Advert : Section 60/65 - Dev aff  
LB/CA  
Advertised on: 02/12/2015  
Committee Date: 21/04/2106  
Community Council : Comments



### RECOMMENDATION:

Approve subject to conditions

## **DESCRIPTION**

The property is located within the Albyn Place/Rubislaw Conservation Area and is a Category B Listed Building. George Coutts designed in 1899; the property is a 2-storey, plus basement and attic, 3-bay villa. The construction includes rough-faced coursed grey granite, and Aberdeen bond granite rubble to remainder. There are predominantly timber sash and case windows with decorative upper sashes, and metal secondary glazing to exterior. The roof is of piended grey slate roof formation with lead flashings, and the property also benefits from cast-iron rainwater goods.

In respect of the interior, features of note include: a stained glass flanking inner door; panelled doors, decorative architraves; skirting boards, cornicing and some moulded ceilings; timber fireplace survives; turned balusters to stair; stained glass stair window.

At the frontage of the site are square-plan gate piers, with a low coped rough-faced wall between, with rubble walls to remaining boundaries. There are currently two narrow vehicular openings at present with a looped tarmac driveway (and associated parking area), with a central grassed area and single landscaped garden. The side boundary walls are approximately 1.5 metres in height and constructed from granite rubble with a granite cope.

To the rear of the building, adjacent to the lane running between Bayview Road, and Anderson drive, is a sizeable domestic garage. It is finished with a white painted render and a corrugated sheet to the roof. The height is approximately 3.5 metres to roof ridge. The majority of the remaining rear area is laid out mature garden ground which is partially terraced. A number of coniferous trees existing along the western boundary of the site, although some also existing to the east towards 92 Queen's Road. The boundaries to the east and west are formed by granite rubble walls with brick coping of approximately 1.5 metres in height.

## **RELEVANT HISTORY**

85/0123 – Formation of Vehicular Access from Rear of 94 Queen's Road to Anderson Drive – Approved conditionally on 28 February 1985. The solitary condition stated "that the use of the lane is restricted to use in connection with the residential property at 94 Queen's Road only - in order to preserve the amenity of the neighbourhood".

P131115 – Detailed Planning Permission for Change of use from Residential (Class 9) to Class 4 (Offices) and associated car parking – Application was withdrawn on advice from Planning Officer. At that time, it was not considered that appropriate marketing of the premises for continued residential use had been undertaken, and therefore the principle of the change of use had not been established.

P131116 – Listed Building Consent for alterations to property to allow for a change of use from Residential (Class 9) to Class 4 (Offices) and associated parking – Withdrawn in light of the above circumstances.

## **PROPOSAL**

This application seeks planning permission for the following works:

- The conversion of the entire existing building from residential use to Class 4 offices;
- The demolition of the existing garage, and the formation of a new car park to the rear for 16 no. cars (with porous surfacing), with provision also made for cycle storage within the existing building; and,
- The removal of approximately 23 trees within the rear garden area.

Details of all the above works are provided in more detail under the discussion element of this report.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=151795>

On accepting the disclaimer, enter the application reference quoted on the first page of this report.

## **REASON FOR REFERRAL TO COMMITTEE**

The application has been referred to the Planning Development Management Committee as it is being recommended for approval and has been then subject of formal objection by the local Community Council within whose area the application site falls, and it has been the subject of six or more timeous letters of representation (following advertisement and/or notification) that express objection or concern about the proposal – representing a significant level of opposition to any local development proposal. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

## **CONSULTATIONS**

**Roads Development Management** – No objections. The proposals would result in a shortfall of two car parking spaces. Recommends conditions are attached in respect of the follow matters:

- Provision and delineation of the car park as per the submitted plan;
- The provision of the proposed one way system which has been accepted by Transport Scotland shall require the promotion of a new Traffic Regulation Order by the applicant, and appropriate signage (all at the cost of the applicant);

- A scheme for the TRO shall require to be to the specification of the Traffic Management;
- Removal of gates and sunken traffic plates;
- SUDS details; and
- A Green Travel Plan

**Environmental Health** – No observations

**Communities, Housing and Infrastructure (Flooding)** - No observations

**Transport Scotland** - Advise that conditions should be attached to any planning permission in respect of the following matters:

- A one-way traffic management system, as agreed for withdrawn Application No. P131115 (and shown on sketch attached to this response) is to be implemented.
- A speed bump at the approach to the exit is to be installed.
- The walls at the exit are to be lowered to 1m high to provide driver visibility of the pedestrian footway adjacent to the exit (1m back and 1m along the trunk road in both directions).
- The Operating Company are to be contacted regarding the timing and installation of the left turn only sign to be erected on the trunk road central reserve.

**Queens Cross and Harlaw Community Council** – Object to the proposal on the followings grounds:

- Approving this application will erode residential amenity and immediately drastically change the area into a busy noisy unpleasant neighbourhood divided in two by a dangerous narrow lane for cars; this is completely at odds with Local Development Plan policy H1.
- Not only will cars be continuously passing along the back lane to the new offices and car park but also a rat run will open up to any vehicles who want to dodge the often long tail backs on Queen's Road.
- The community council would like clarification as to how the changes to the lane such as removal of the gates which at the moment keep the lane quiet and prevent it being used as a rat run would be paid for.
- The proposal is at odds with Scottish Planning Policy which directs Local Authorities to support patterns of development that provide safe and convenient opportunities for walking and cycling.
- At present a number of properties are being marketed within the West End Office Area including: 70 Queen's Road, 9 Queen's Road and 20 Queen's Road which would suit the proposed occupier's requirements.
- Houses continue to sell in the area whereas, as evident from the above, there is huge competition trying to sell office space in and around Aberdeen with little or no demand for new office space. It is contended that the property has not been marketed for a suitable time at a sensible price to justify a change of use from residential to office.
- A building such as this is better retained as a house (even divided into flats).
- Queen's Cross Community Council have had to feel the impact of office and commercial interests changing the environment of our previously predominantly residential area. Office and commercial interests such as Chester Hotel are fast changing our neighbourhood to the detriment of many of our residents.

- The community council would also recommend a close inspection of the other objections to this planning application as the individuals making various different points can see and understand better a different personal perspective of the impact this planning application will make. As a result of these possible changes their amenity will be diminished and the enjoyment of their property reduced; this is at odds with Local Development Plan policy H1 and also SPP.

## **REPRESENTATIONS**

11 letters of representation were received in respect of this application, albeit with two letters being submitted by one individual. Thus eight letters objected to the proposals, and two letters were in support. Of the eight letters of objection, the vast majority utilised (either in part or in whole), the exact same wording, with many received from properties outwith the direct vicinity of the application site. The objections raised relate to the following matters –

- Contrary to the Local Development Plan and SPP;
- Contrary to the Supplementary Guidance relating to the redevelopment of residential curtilages in that it has a presumption against development which is alien to the density, character and pattern of development in the residential area;
- Rear lane was divided in two as part of the Earls Court redevelopment. The proposal would create vehicular conflict, increase waiting times, and oppose a significant hazard to both pedestrians and vehicles;
- The rear lane is used by children to play in;
- No transport impact assessment or waste management plan have been submitted;
- Car parking will dominate the space to the rear, be detrimental to the setting of the Listed Building, and to the character of the Conservation Area;
- The property is outwith West End Office area, and the proposal would erode the character and amenity of the area;
- Potential anti-social hours of operation;
- The development would reduce privacy of adjacent residents;
- Existing trees covered by a TPO would be lost, which adds to the landscape setting of the area;
- The applicant has failed to demonstrate the need for the proposal, and has not marketed the existing property properly as a going concern;
- Contests that a flatted development would affect the buildings integrity;
- The proposal would detract from the objective of the City Centre Masterplan; and,
- The proposal lacks compliance with SPP, PAN 78, PAN 68 ALDP policy H1, NE5 and supplementary guidance.

In respect of the letters of support, they highlighted the following points;

- The sheer scale of the property is well beyond the means of a typical family;

- The nature of the conversion is desirable in terms of safeguarding the property in a viable manner;
- The use would exist happily in this location without any loss of amenity to surrounding property, as evidenced by surrounding commercial properties;
- An adjacent office premise at 88 Queen's Road recently benefitted from permission for the provision of a substantial rear car park without any detriment to the surrounding area;
- The proposal would be a good alternative to the many unsustainable edge of town office spaces which continue to be built across the City.
- The flatted market in Aberdeen is already saturated

Matters raised in the representations which are not material planning considerations include:

- Increased traffic will impact on privacy
- Intensification of the lane and associated maintenance costs
- Potential overspill parking into adjacent private land
- This part of Queen's Road should be part of the West End Office Area.

## **PLANNING POLICY**

### **Scottish Planning Policy (SPP)**

The replacement SPP was published in June 2014. It outlines national planning policies which reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Of the principle policies listed, it identifies a presumption in favour of development that contributes to sustainable development. The subject policies also break down the policy areas further in highlighting:

- Supporting business and employment; and
- Valuing the historic environment.

SPP introduces a presumption in favour of development that contributes to sustainable development. Paragraph 28 highlights that "the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve development in the right place".

The policy principles relating to valuing the historic environment acknowledges that the planning system should "enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced".

Specifically, it states within paragraph 141 that "change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the

importance of preserving and enhancing the building, its setting, and any features of special architectural or historic interest”.

### **Scottish Historic Environment Policy (SHEP)**

Scottish Ministers want to:

- make the best use of the historic environment to achieve their wider aims of economic and social regeneration; and,
- identify the many aspects of our environment and protect and manage them in a sustainable way to secure their long term survival and preserve their embodied energy

The policy of the Scottish Ministers is that:

- actions taken in respect of Scotland’s historic environment should secure its conservation and management for the benefit and enjoyment of present and future generations;
- there should be a presumption in favour of preservation of individual historic assets and also the pattern of the wider historic environment; no historic asset should be lost or radically changed without adequate consideration of its significance and of all the means available to manage and conserve it;
- Scotland’s historic environment should be managed in a sustainable way, recognising that it is a social, cultural, economic, and environmental resource of great value.

Scottish Ministers Policy on Listed Building Consent is to presume against works that adversely affect the special interest of a listed building or its setting.

Paragraph 3.35 states “The majority of listed buildings are adaptable and have met the needs of successive generations while retaining their character. Change should therefore be managed to protect a building’s special interest while enabling it to remain in active use. Each case must be judged on its own merits but in general terms, listing rarely prevents adaptation to modern requirements but ensures that work is done in a sensitive and informed manner”. It further goes on to state within paragraph 3.48 that “Where a proposal involves alteration or adaptation which will sustain or enhance the beneficial use of the building and does not adversely affect the special interest of the building, consent should normally be granted”.

### **Aberdeen City and Shire Structure Plan**

The Strategic Development Plan outlines objectives towards encouraging economic growth, and sustainable development. It further stipulates that new development should maintain and improve the region’s important built, natural and cultural assets.

## **Aberdeen Local Development Plan**

The site falls within a wider area allocated for H1 (Residential Areas) purposes in the adopted Aberdeen Local Development Plan.

Policy H1 Residential Areas

Policy T2 Managing the Transport Impact of Development

Policy D1 Architecture and Placemaking

Policy D3 Sustainable and Active Travel

Policy D4 Aberdeen's Granite Heritage

Policy D5 Built Heritage

Policy NE5 Trees and Woodlands

## **Proposed Aberdeen Local Development Plan**

Policy H1 Residential Areas

Policy D1 Quality Placemaking by Design

Policy D4 Historic Environment

Policy D5 Our Granite Heritage

Policy T2 Managing the Transport Impact of Development

Policy T3 Sustainable and Active Travel

Policy NE5 Trees and Woodlands

## **Supplementary Guidance**

Subdivision and Redevelopment of Residential Curtilages

Transport and Accessibility

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas

### SPP/SHEP

At the outset, it is acknowledged that the general stance of the Scottish Ministers and Historic Environment Scotland, is to presume against works which affect the special character or features of a historic asset. In this instance, the parallel application for Listed Building Consent (Ref: 151796) for the demolition of the modern garage within the site shall be the subject of separate detailed consideration on its own merits. The works necessary to accommodate a commercial use are unlikely to require an application for Listed Building Consent in their own right.

As such, this application, deals with the principle of the proposed change of use, and the potential localised inputs either to the wider character of the area, or that of the Albyn Place/Rubislaw Conservation Area.

The most suitable use for a listed building is the one for which it was designed. As planning authority, there is a duty to consider applications that are submitted, on their own merits. At the time of the previous application in 2013, it was considered that insufficient evidence of the adequate marketing of the property for continued residential use had been undertaken. As such, the applicant withdrew the planning application to undertake a more detailed exercise in that regard.

The property has been marketed both publically and via the ASPC since March 2015, with no noted interest. Admittedly, the asking price is high, although this is a very substantial and prominent property in the heart of the West End. Nonetheless, while not a policy requirement, it has been deemed to be adequately marketed. In parallel, is the consideration of the alternatives to the retention of the building for use as a single dwelling. The use as flats would on first impression appear logical. However, the measures and alterations which would be necessary to accommodate this include provisions for fire separation, which could require significant amendment to and potential loss of architectural features which the building possesses. This could include cutting across or severing the existing stained glass window to the eastern gable of the property.

The submitted alternative to accommodate office use requires minimal interventions to the building, and would see a continuing beneficial use provided, examples of which are already present within the locale. In turn, this would allow significant economic benefits from the commercial perspective, and create additional quality office accommodation just outwith the West End Office area.

The other works including the alterations to the rear garden which is already significantly paved and the formation of the car park, are to an appropriate standard to this listed building, and its position within the Albyn Place/Rubislaw Conservation Area.

The Aberdeen Local Development Plan has a number of policies that are relevant to varying degrees, and each are considered in turn below.

#### Policy H1 (Residential Areas)

The Policy notes that within existing residential areas, proposals for non-residential uses will be refused unless:

- 1) They are considered complementary to residential use; or
- 2) It can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

In this instance, the adjacent properties on Queen's Road on either side of the application site are both in residential use as flats, with No, 92 being a conversion, and the former Earl's Court Hotel to the west was converted and the

subject of significant new build elements. The size of the host building itself, limits the level of occupation that can ultimately be achieved for office use. Furthermore, Class 4 office uses can generally be carried out in residential areas without any detrimental impact on the character or amenity of the adjoining residential uses. While the conversion of part of the back garden (about an additional 7 metres across the majority of the width in addition to the notable level of hardstanding already), would see the introduction of a parking area. However, a rear car park for 16 cars and the associated movements, in comparison to the significant usage of Anderson Drive, and Queen's Road at the frontage of site, are negligible, particularly in the respect of associated noise and amenity impacts. Such parking areas are not uncommon in the general area, and as such, would not be considered to have a significant detrimental impact on residential amenity or character as a result. This would therefore not be alien to the existing character of the area, and also takes cognisance of the requirements of the Supplementary Guidance relating to the Splitting of Residential Curtilages.

The proposed use would utilise the existing envelope of the building, and would see no new extensions necessary. As such, the existing window openings would also be utilised, and no new overlooking or privacy issues would arise as a result, thus accordingly with the principles of Policy H1 of the Adopted Local Development Plan.

Policies T2 (Managing the Transport Impact of Development) and D3 (Sustainable and Active Travel)

It is acknowledged that the use of the rear lane would intensify as a result of the development. Many properties along both Albyn Place and Queen's Road utilise rear lane access, often along narrow lanes such as proposed in this instance. Following analysis of the submission, Transport Scotland and Roads Officers have confirmed their acceptance of the proposals. While providing a total of 20 car parking spaces, this would be a shortfall of only two spaces when assessed against the extant car parking standards. Given the excellent linkages to a number of public transportation services, and by walking/cycling, such a shortfall is considered acceptable in this instance.

Accordingly, a number of planning conditions have been requested between Transport Scotland and Roads Officers which relate to the provision of the one way access system from Bayview Road and associated traffic calming measures; the promotion of the TRO; the provision and delineation of the car park; and the lowering of the walls adjacent to the egress onto Anderson Drive. The applicant has indicated that such works can take place on land within their control. In addition, a condition is also necessary for the provision and agreement of a Green Travel Plan prior to the occupation of the converted premises. This shall ensure that appropriate targets and objectives for sustainable transportation are set, and ultimate measured.

Policy D1 (Architecture and Placemaking)

It is considered that the proposals have taken account of the quality and special features of this Category B listed building, and the wider Albyn Place/Rubislaw Conservation Area. The proposal has taken account of its setting and would for

all intents and purposes appear exactly the same from the principal viewpoints. The historical layout and function would still be evident, while the rear garden area would be simplified and de-cluttered, with the removal of the existing garage, and dominant coniferous trees along the boundaries. The provision of the formal hardstanding would be reflective of many of the surrounding feus within the surrounding area. As such, it is not considered that any visual detriment would arise as part of the proposals.

#### Policy D4 (Aberdeen's Granite Heritage)

Conversion and adaptation of granite buildings will be favoured. As such, the property shall be given a new lease of life, with a quality finish, which shall see a beneficial use being introduced.

#### Policy D5 (Built Heritage)

It states that proposals affecting Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

It is considered that the proposal follows the principles established by the above Scottish Government policy background. While the building is occupied, it has been on the market for over a year. Consideration must therefore be given to ensure that it has a long term and viable future as part of an alternative use for commercial purpose. It is not considered that the proposal to convert the premises to office use, nor the expanded parking area would have an adverse impact on the character or appreciation of the building in its curtilage. However, in order to accord with the Supplementary Guidance relating to Transport and Accessibility, and in particular the guidance relating to the creation of rear car parking areas, a condition can be utilised to require further details of a new enclosure to the car park, which would better reflect the character of the area, and the original curtilage/feu layout. As such, the proposal is in accordance with Policy D5 Built Heritage of the Local Development Plan.

#### Policy NE5 Trees and Woodlands

A suggestion was made within one of the letters of objection that all of the trees on site are covered by a Tree Preservation Order. However this assertion was incorrect, as it is only the trees along the frontage that form part of TPO No. 13, and those trees are to remain as part of the proposals. Notwithstanding this, the trees are afforded some protection given their location with the Conservation Area, and there separate consent would be required for their felling. However, the species of fir which would be lost to the rear are not considered to be particularly appropriate for this location, and could ultimately destabilise the adjacent listed wall. As such, their removal would be beneficial in the short term, and would also allow for greater light to spill into the remaining rear garden of No. 94, and potentially adjacent neighbours as well. While the proposal would result in the loss of trees on site, it should be noted that those trees are not considered to contribute positively to the landscape character of the area not that of the Conservation Area, and therefore the proposal would not be at odds with Policy NE5 of the Adopted Local Development Plan.

### Matters raised in representations

In respect of matters raised in the representations above which have not already been addressed:

- While representations suggestion that there is an ample provision of office premises in the City and surrounding area, the commercial viability of the proposal is at the risk of the applicant. It is unlikely that any permission would be implemented unless an occupier was identified. As such, the property could still be occupied as a dwelling until any permission was implemented (and which would be subject to the standard limitation of being implemented within 3 years of the date of decision)
- Contrary to the content of the representations, the rear lane was not divided in two as part of the Earls Court redevelopment. The lane was sub-divided in the mid nineteen nighties, whereas the Earls Court development was carried out around 15 years later.
- The matter of children playing in the rear lane, has not been raised as a potential safety concern by Roads Officers. Notwithstanding, the level of traffic would be relatively low both in the terms and associated speeds.
- In respect of the cross reference to PAN 78 (Inclusive Design) and PAN 68 (Design and Access Statements), it is considered that the applicant has met the necessary requirements of legislation in providing supporting information.
- While the City Centre Masterplan is a relevant consideration, the aspiration therein to promote employment uses in the city centre, would not outweigh the primacy of the Local Development Plan, which would not preclude an office development in a residential area, if there was no detriment to existing residential amenity.

### Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis. In relation to this particular application, the policies of the Proposed Local Development Plan, largely reflect those within the Adopted Local Development Plan. Therefore there are no material considerations which would outweigh the policies of the extant Development Plan.

## **RECOMMENDATION**

**Approve subject to conditions**

## **REASONS FOR RECOMMENDATION**

The proposal to convert the existing flatted properties into Class 4 offices is considered to be an appropriate use within this part of the residential area, which already contains office uses without undue conflict with adjacent residential properties. Following a period of marketing, the applicant has demonstrated that the continued use for residential purposes is no longer in demand, and that the new use can be accommodated with a minimal level of intervention to the host listed building, and the wider character of the Albyn Place/Rubislaw Conservation Area.

Furthermore, a solution has been developed to ensure that from the road and pedestrian safety perspective satisfies statutory consultees, on a site that is also well connected to the public transportation network, and walking routes.

As such, the proposals are considered to be in accordance with Policies H1 Residential Areas, T2 Managing the Transport Impact of Development, D1 Architecture and Placemaking, D4 Aberdeen's Granite Heritage, and D5 Built Heritage of the Aberdeen Local Development Plan (2012).

## **CONDITIONS**

**it is recommended that approval is granted subject to the following conditions:-**

(1) that the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing No. 1197-1002 Rev A of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of cars ancillary to the development and use thereby granted approval - in the interests of public safety and the free flow of traffic.

(2) That no development shall take place unless there has been submitted to and agreed in writing by the planning authority in liaison with Transport Scotland schemes for:

- 1) A one-way traffic management system, as agreed for withdrawn application No. P131115 (and shown on the sketch plan appended to the TS response).
- 2) A speed bump at the approach to the exit.
- 3) The walls at the exit are to be lowered to 1m high to provide driver visibility of the pedestrian footway adjacent to the exit (1m back and 1m along the trunk road in both directions).

4) The Operating Company are to be contacted regarding the timing and installation of the left turn only sign to be erected on the trunk road central reserve.

Thereafter the development shall not be occupied unless the said improvements have been implemented in full - To minimise interference with the safety and free flow of the traffic on the trunk road, and to ensure the safety of pedestrians on the trunk road footway.

(3) That the development hereby granted planning permission shall not be occupied unless a scheme to promote the external access improvements and associated Traffic Regulation Order (TRO) in accordance with drawing no. A/13827-900 Rev 3 hereby approved, has been submitted to, and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme – To ensure the safety and free flow of the traffic, and to ensure the safety of pedestrians.

(4) That the development hereby granted planning permission shall not be occupied unless there has been submitted to and approved in writing a detailed Green Transport Plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets - in order to encourage more sustainable forms of travel to the development.

(5) That the development hereby granted planning permission shall not be occupied unless a scheme detailing cycle storage provision has been submitted to, and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme - in the interests of encouraging more sustainable modes of travel.

(6) that no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.

(7) that no development pursuant to this planning permission shall take place, nor shall any part of the development hereby approved be occupied, unless there has been submitted to and approved in writing by the Planning Authority, details of site and plot boundary enclosures (including the proposed retaining wall, and the provision of a new granite wall/railings to the car park boundary) for the entire development hereby granted planning permission. None of the buildings hereby granted planning permission shall be occupied unless the said scheme has been implemented in its entirety - in order to preserve the amenity of the neighbourhood, and the character of the Conservation Area.

(8) that no development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting - in the interests of the amenity of the area.

(9) that no development shall take place unless a plan showing those trees to be removed and those to be retained and a scheme for the protection of all trees to be retained on the site during construction works has been submitted to, and approved in writing by, the Planning Authority and any such scheme as may have been approved has been implemented - in order to ensure adequate protection for the trees on site during the construction of the development.

(10) that no part of the development hereby approved shall be occupied unless a plan and report illustrating appropriate management proposals for the care and maintenance of all trees to be retained and any new areas of planting (to include timing of works and inspections) has been submitted to and approved in writing by the Planning Authority. The proposals shall be carried out in complete accordance with such plan and report as may be so approved, unless the planning authority has given prior written approval for a variation - in order to preserve the character and visual amenity of the area.

(11) That the use hereby granted planning permission shall not take place unless provision has been made within the application site for refuse storage and disposal in accordance with a scheme which has been submitted to and approved in writing by the planning authority – in order to preserve the amenity of the neighbourhood and in the interests of public health.

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# Agenda Item 2

## Planning Development Management Committee

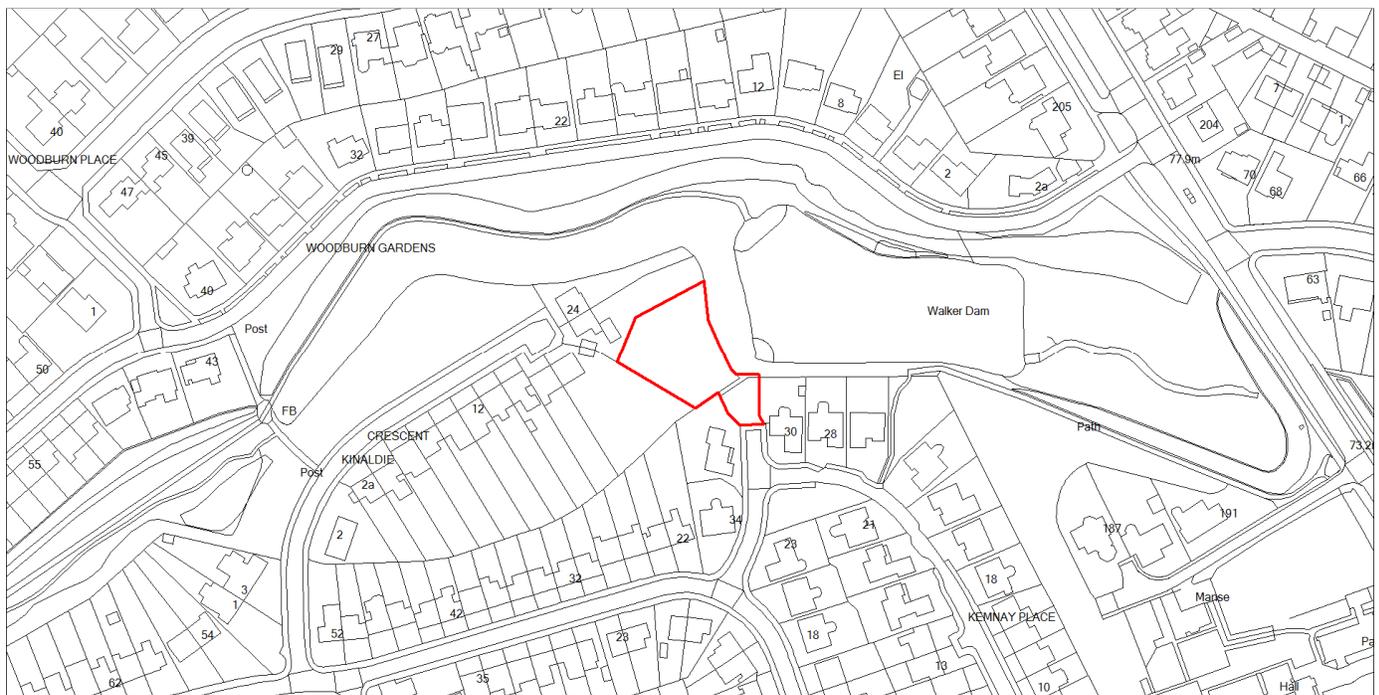
22 KINALDIE CRESCENT, CRAIGIEBUCKLER

SUB-DIVISION OF RESIDENTIAL CURTILAGE  
AND ERECTION OF NEW DWELLINGHOUSE  
AND ASSOCIATED WORKS

For: Mr & Mrs N Greig

Application Type : Detailed Planning Permission  
Application Ref. : P150311  
Application Date: 27/02/2015  
Officer: Gavin Evans  
Ward : Hazlehead/Ashley/Queens Cross(M  
Greig/J Stewart/R Thomson/J Corall)

Advert :  
Advertised on:  
Committee Date: 21/04/2016  
Community Council : Comments



**RECOMMENDATION: Refuse**

## **DESCRIPTION**

The application site, which extends to approximately 1400sqm, lies to the south-west of the Walker Dam and incorporates part of the rear garden to 22 Kinaldie Crescent, along with an area of open space between Nos. 30 and 32 Kemnay Place. These are currently two separate and distinct parcels of land, which would be combined to facilitate the proposed development.

The grounds to the rear of 22 Kinaldie Crescent slopes moderately down towards Walker Dam, with the land immediately to the east of the site characterised by mature trees. The generous plot of No. 22 is largely laid to grass, with evidence of some recent landscape clearance towards its south-eastern corner at the time of an earlier application, detailed below. The eastern boundary, to the adjacent Walker Dam, is enclosed by a wooden stake fencing in a state of collapse.

An area of open space between 30 and 32 Kemnay Place lies to the south-east of 22 Kinaldie Crescent. It falls gently to the north, towards Walker Dam, and is largely laid to grass, with planted borders. Its eastern and western edges are enclosed by standard timber fencing, however its northern edge is defined by post-and-wire fencing and a row of existing trees, predominantly Alder and Rowan.

## **RELEVANT HISTORY**

Residential development comprising 15 homes on the site of the former Walker Dam Primary School was granted Planning Permission in 1999, with the approval of application ref 99/0316. As part of the approved scheme, three areas of open space were laid out. One of those areas of open space, between 30 and 32 Kemnay Place, lies within the current application site and would be used to form a new access point/driveway.

More recently, application P140029, sought permission for the construction of a single detached dwellinghouse to the rear of 22 Kinaldie Crescent. That proposal was due to be referred to the Planning Development Management Committee, but was withdrawn by the applicants prior to inclusion on an agenda.

## **PROPOSAL**

This application proposes the construction of a new 1 ½ storey detached dwellinghouse within a new plot, to be formed via the sub-division of the existing plot at 22 Kinaldie Crescent. Access to the site would be obtained via a new driveway, taken from an existing dead-end/turning head on Kemnay Place and crossing an area of open space between Nos. 30 and 32 Kemnay Place. The new dwelling would be finished with a mix of wetdash render and granite, with timber lined windows and a slated roof.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=150311>

On accepting the disclaimer, enter the application reference quoted on the first page of this report.

## **REASON FOR REFERRAL TO COMMITTEE**

The application has been referred to the Planning Development Management Committee because more than 5 representations expressing objection were submitted to the planning authority. Accordingly, the application lies outwith the scope of the Council's Scheme of Delegation.

## **CONSULTATIONS**

**Roads Development Management** – No objection is stated, however the following points are noted:

- The driveway must be internally drained with no surface water discharging onto the public road;
- Loose material (e.g. stone chippings) must not be used to surface any of the first 2 metres length adjacent to the footway;
- The gradient should not generally exceed 1:20;
- Details of proposed drainage for the site is required;
- Notes that Core Path 60 runs along the east and north of the site boundary and states that no works should impinge on continued use of the core path.

**Environmental Health** – No observations.

**Communities, Housing and Infrastructure (Flooding)** - Seek clarification of proposed drainage design. State that any proposal should take into account some sort of Sustainable Urban Drainage Systems (SuDS) measures in order to reduce the surface runoff water flow (e.g. porous pavement, infiltration measures, attenuation volume).

**Community Council** – The local Craigiebuckler and Seafield Community Council raise the following concerns:

- Loss of green space – both to form driveway and through incorporation of remaining landscaped area as a part of the garden serving the new property;
- Impact on wildlife as a result of traffic, lighting and general garden use;
- Concern that the site would not be appropriately enclosed from the Walker Dam.

## **REPRESENTATIONS**

19 letters of representation have been received. The objections raised relate to the following matters –

- Impact on Green Space Network and Local Nature Conservation Site – resultant impact on amenity and conflict with policies NE1 (Green Space Network), NE5 (Trees and Woodlands), D6 (Landscape) and NE8 (Natural Heritage);
- Highlights that the site is well-used for recreation and education purposes;
- New dwelling would be intrusive on character and attractiveness of the dam;
- Precedent set for the loss of amenity spaces to facilitate development;
- Conflict with condition from an earlier consent (ref 99/0316) relating to the retention of open space areas;
- Earlier refusal of permission to build in gardens of 20/22 Kinaldie Crescent;
- Disruption to residents during construction;
- Potential for flooding – run-off could damage the environment within the LNCS;
- Note that residents currently maintain this area of open space;
- Potential for damage to existing lock-block surfaces from heavy construction vehicles;
- Dwelling is uncharacteristically large and access arrangements are not representative of surrounding area;
- Wall is too large and would be intrusive when seen from Walker Dam;
- Part of the building would be for commercial purposes;
- Impact from new lighting on wildlife value of the LNCS;
- Concern regarding potential impact on bats;
- Loss of privacy to 20 Kinaldie Crescent from upper floor windows;
- Contradiction within submitted information – Planning Statement refers to lock block surfacing; Site layout plan refers to gravel driveway;
- Lack of information on necessary excavations and changes to ground levels. Also several trees are not included within the scope of the submitted tree survey.
- Change of use to from open space to garden ground has not been obtained.

## **PLANNING POLICY**

### **National Policy and Guidance**

#### Scottish Planning Policy (SPP)

#### Aberdeen City and Shire Strategic Development Plan (SDP)

Paragraph 3.9 recognises Aberdeen City as a strategic growth area and states a preference for development on brownfield sites.

Paragraph 3.20 emphasises the need for improvement of environmental quality and high quality design.

#### **Aberdeen Local Development Plan (ALDP)**

#### Policy T2: Managing the Transport Impact of Development

Policy D1: Architecture and Placemaking  
Policy D2: Design and Amenity  
Policy D6: Landscape  
Policy H1: Residential Areas  
Policy H3: Density  
Policy NE1: Green Space Network  
Policy NE5: Trees and Woodlands  
Policy NE8: Natural Heritage  
Policy R7: Low and Zero Carbon Buildings

### **Supplementary Guidance**

The Subdivision and Redevelopment of Residential Curtilages  
Transport and Accessibility  
Low and Zero Carbon Buildings  
Trees and Woodlands

### **Proposed Aberdeen Local Development Plan**

Policy D1 – Quality Placemaking by Design  
Policy T2 – Managing the Transport Impact of Development  
Policy H1 – Residential Areas  
Policy H3 - Density  
Policy R6 - Waste Management Requirements for New Development  
Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency

### **Other Relevant Material Considerations**

The matters raised in representations are material to the assessment of this application, so far as they relate to legitimate planning considerations.

### **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

### **Principle of development & Zoning**

The application lies within a predominantly residential area, which has been zoned as such in the Local Development Plan, with policy H1 applicable. Policy H1 allows for residential development, provided a series of criteria can be satisfied. There is significant overlap between these criteria and the principles set out in the 'Sub-division and Redevelopment of Residential Curtilages' Supplementary Guidance, so it is appropriate for later sections of this report to consider these matters in parallel.

### **Encroachment on Open Space**

In order to access the main body of the site, to the rear of Kinaldie Crescent, the proposal involves a new access being formed off Kemnay Place, on an area of Open Space situated between Nos. 30 and 32. That area of Open Space is

understood to have been laid out as part of the Stewart Milne development on the site of the former Walker Dam Primary School site. In considering the proposal's relationship with policy H1, it is necessary to consider whether the existing area of Open Space is 'valuable and valued', and indeed to what extent it would be lost or eroded as a result of the development.

It is acknowledged that this area of Open Space, in the context of the three laid out as part of the Stewart Milne development, makes the least significant contribution to the character and amenity of the area. This view is reached on the basis that this area of open space is periphally sited, with no through route, whereas one of the others provides the pedestrian path link from Kemnay Place to the Core Path route around the Walker Dam, and the other is prominently sited at the heart of the development, overlooked by adjacent properties, and as a result its soft landscaping could be considered to make a greater contribution to the character of the area. It is noted also that the area of Open Space affected by the development proposal is less than half the size of the other two, at approximately 200sqm compared to 440sqm and 590sqm respectively.

These are relevant factors, however it does not follow that the area of Open Space in question is not itself of value. This smaller area of soft landscaping, which incorporates a row of Alder and Rowan trees along its northern edge, provides a pleasant green backdrop on entry to Kemnay Place via Kildrummy Road, contributing positively to the character and amenity of the area. Whilst its scope for active enjoyment is agruably less than the other areas of open space within the development, it still serves a valuable purpose in providing an area of soft landscaping. Taking these points into account, it is concluded that the existing area of open space, notwithstanding its limited size, is 'valuable' for the purposes of assessment against policy H1. Consideration of whether this area is valued by the local community is difficult, however it is notable that many of the representations received make reference to the loss of this area of open space. On that basis, it appears that this area is very much valued by people in the area. These points highlight a material conflict with policy H1 (Residential Areas) of the ALDP.

Due to its encroachment onto an existing area of open space, which is of some local landscape value, the proposal fails to accord also with policy D6 (Landscape) of the ALDP.

### **Roads & access**

As noted in the earlier description of the proposal, access to the site would be obtained via a new driveway being laid out from Kemnay Place to the main body of the site, to the rear of 22 Kinaldie Crescent. Provided any such driveway is of an appropriate gradient and is suitably surfaced and drained, the Council's Roads Development Management Team has no objection to the means of access proposed.

### **Density, Pattern and Scale of Development**

The residential plots at Nos. 20 and 22 Kinaldie Crescent are among the largest in the local area. This proposal would result in the sub-division of the existing plot

at No. 22, however the retained plot would still compare favourably (at 785sqm) to many of those in the surrounding area – as a comparison, Nos. 18 and 24 Kinaldie Crescent measure circa 570 and 520 sqm respectively, and 32 Kemnay Place is estimated at circa 650sqm. So far as plot size is concerned, it is considered that the density of development is broadly consistent with that seen in the surrounding area.

Over and above simple plot size, proposals must demonstrate due regard for any established pattern of development in the surrounding area. The site is located in an area characterised by dwellings arranged with relatively formal building lines, fronting onto a public road and benefiting from private garden grounds to the rear. The Council's adopted Supplementary Guidance explicitly states that *"in these areas the construction of dwellings in the rear gardens of existing dwellings, or the redevelopment of a site that results in dwellings that do not front onto a public road, constitutes a form of development that is alien to the established density, character and pattern of development"*. This guidance further notes that this form of development can also erode the privacy of private amenity space available to existing residents. It concludes by stating that, *"in all suburban areas characterised by a formal or semi-formal building line fronting onto a public road and having back gardens which provide private amenity space, there will be a presumption against the construction of new dwellings in rear garden ground behind existing or proposed dwellings in circumstances where the new dwellings do not front onto a public road"*.

Whilst the house itself would not present a strong frontage onto Kemnay Place, neither would it give the impression of 'backland' development, where a second building line is formed via the construction of dwellings to the rear of an existing building line. The site would benefit from its own street frontage, albeit with the house located some distance back from the road via a driveway. It is noted also that there is an absence of comparably sized plots which could be sub-divided in a similar manner, and there is no scope for a second building line to be formed as a result of this proposal.

The absence of any formal frontage to the public road represents an area of conflict with the stated terms of the Council's adopted Supplementary Guidance, which explicitly sets out a presumption against this type of development, and therefore also demonstrates inconsistency with policy H1 (Residential Areas) of the ALDP, which required compliance with this Supplementary Guidance document. Nevertheless, it is not considered that this somewhat uncharacteristic arrangement would be to the detriment of residential amenity or of the character of this area generally, notwithstanding the impact resulting from the driveway's encroachment on the existing open space, noted above. Similarly, the density of the proposed development, with regard to building footprint and plot coverage, is appropriate in this setting, subject to consideration of the impacts arising from the proposal. In this regard, there is considered to be no material conflict with policy H3 (Density).

### **Privacy, Amenity, Daylight, Sunlight**

It is considered that residents of the proposed new dwelling would be afforded adequate privacy, that the new house would present an appropriate frontage to the street, and that a private face would open onto an area of private garden ground, as required by policy D2 (Design and Amenity) of the ALDP. The arrangement of internal floor plans is such that the windows of habitable rooms at upper level are generally directed away from adjoining properties or otherwise benefit from a degree of screening which avoids undue overlooking or loss of privacy.

### **Design & Materials**

As noted previously, the siting of the proposed dwelling is not entirely consistent with existing properties on Kemnay Place, in that it would be set back from the street, however this serves to limit any impact on the surrounding streetscape, and is not considered to be inappropriate in terms of its relationships with neighbouring dwellings. The scale, height and general form of the 1 ½ storey detached dwelling are considered to be appropriate for its context, as are the proposed materials. Its orientation is such that the building would address Kemnay Place, with its L-shaped form creating an obvious 'front', whilst its rear elevation would benefit from views towards the adjacent Walker Dam. Taking these matters into account, it is considered that the proposed dwelling is appropriate as a piece of architecture, however its means of access would result in the erosion of an area of existing open space and its relationship with existing trees, which will be addressed in detail in the following section of this report, fails to either demonstrate due regard for its setting or make a positive contribution to its setting. In this respect, the proposal is not considered to accord with the provisions of policy D1 (Architecture and Placemaking) of the ALDP.

### **Impact on Trees & Landscape**

This proposal's relationship to existing trees and green spaces is central to this assessment. Whilst the dwelling itself would lie outwith identified Root Protection Areas (RPAs), the formation of a new driveway would involve the direct removal of 4 trees and encroachment within the RPAs of several more, within the Walker Dam, the existing open space on Kemnay Place and those within the garden of 32 Kemnay Place. It is acknowledged that the degree of encroachment is relatively modest relative to the full area of root systems, and also that there has been a degree of impact recently as a result of another existing tree being uprooted, however that does not justify further encroachment and best practice in relation to trees indicates that buildings works should be kept outwith RPAs unless there is an overriding justification otherwise. In this instance there is no obvious wider public benefit which would warrant setting aside the likely adverse impact on existing trees. It is recognised that a 'no-dig' construction method is proposed in order to minimise impact arising from excavations, however it has been noted that a degree of infilling would be necessary due to the uneven site levels, which would itself serve to adversely affect root systems. It is noted also that the trees in question form part of the Walker Dam Local Nature Conservation Site (LNCS), which is a popular recreational green space, and therefore there is a public interest in their safeguarding and retention.

In addition to the removal of trees and direct impact resulting from encroachment within RPAs, the proximity of the proposed dwelling relative to large mature trees is of concern. The Council's relevant 'Trees and Woodlands' supplementary guidance highlights that large old/veteran trees are less resilient to the likely impacts of construction activity within close proximity to them, and are therefore more likely to die or become unsafe. It also states that new developments must 'include measures to ensure the long term retention of existing trees' and also that 'consideration should also take into account the final height and spread of new tree planting and how this may impact on new built structures'. Whilst this latter statement mentions new planting, it is reasonable to apply the same principle to ensuring that the siting of new buildings does not prejudice long-term retention of established existing trees, and in this instance it is considered that the proposed dwelling would not be sufficiently separated from large existing trees. This proximity has, in similar circumstances, led to a situation where homeowners are concerned about potential for damage from falling trees or branches, and the Council may be unable to reasonably resist requests for their removal. On this basis, the precautionary principle should apply to the siting of new structures, in order that the scope for conflict between buildings and retained mature trees is avoided where practicable.

Cumulatively, it is considered that these matters would result in undue damage to established trees that contribute significantly to local landscape character and amenity, both in the immediate and long term. Specifically, the proposal fails to site buildings appropriately to minimise adverse impacts on existing trees, contrary to policy NE5 (Trees and Woodlands) and the associated supplementary guidance. It is noted also that trees within the grounds of 32 Kemnay Place have not been included in the submitted survey, precluding assessment of impact on those specimens.

A small area of land designated as part of the Green Space Network would be encroached upon as a result of the new driveway being formed, however the degree of encroachment is relatively minimal and is not considered to fundamentally destroy or erode the wildlife or landscape value of the Green Space Network. On that basis, no material conflict with policy NE1 (Green Space Network) is identified.

### **Walker Dam LNCS**

The Walker Dam is identified as a Local Nature Conservation Site (LNCS), which is a non-statutory local designation relating to areas of local importance for nature conservation. This is described as 'a charming mixture of landscaped areas and semi-natural habitats', the main feature of which is the large pond with a small burn and areas of wet woodland. It is also recognised as being one of Aberdeen's more accessible areas of open water which, due to its location within a residential area of the City, is 'an important recreational and educational resource'. Earlier sections of this report have addressed the potential impact on existing trees, both as a direct result of the proposed works and the increased likelihood of pressure for their removal in future to the undue proximity of the new dwelling. Those same impacts have potential to adversely affect the value of this

locally designated nature conservation site, therefore there is a degree of conflict with policy NE8 (Natural Heritage).

### **Low and Zero Carbon Buildings**

The Council's supplementary planning guidance 'Low and Zero Carbon Buildings' is a relevant material consideration. No details of the incorporation of Low and Zero Carbon generating technologies have been provided in support of the application, and it will therefore be necessary to attach a condition to any consent in order to obtain such details and to ensure installation of equipment prior to occupation, should members resolve to approve the application.

### **Matters raised in representations**

Matters relating to impact on the existing Green Space Network and LNCS designations are addressed in earlier sections of this report, as are impacts on trees, landscape and natural heritage. The value of the LNCS as a recreational and educational resource is recognised. Comments relating to precedent are noted, however it is a well-established principle of the planning system that all proposals will be assessed on their particular merits.

Comments relating to an earlier grant of consent and the conditions attached to it are noted, however it is highlighted that any subsequent grant of planning permission would serve to supersede the effect of conditions relating to the land in question. Similarly, any earlier refusal to grant planning permission is limited in its materiality, and certainly would not preclude the granting of consent. It remains the planning authority's duty to assess any application against the provisions of the development plan and any other material considerations. Change of use from open space to garden ground generally relates to the incorporation of all or part of an existing amenity space into an existing residential garden. In this instance, the change of use is a component part of this application, which involves the formation of a new domestic dwelling and associated curtilage. Disruption to local residents would generally be for a limited period, and any disturbances would be subject to control under the applicable environmental health legislation.

The potential implications of surface water run-off for the environment within the adjacent LNCS are noted, however if Members were minded to grant planning permission it would be reasonable to attach conditions requiring details of surface water drainage arrangements and details of a site-specific Construction Environment Management Plan, aimed at avoiding or mitigating the environmental impact of the development during the construction phase.

That residents are responsible for the maintenance of the existing open space through their title deeds is noted, however that would not preclude planning permission being granted for any development. Any potential damage to existing road surfaces would be subject to existing Roads legislation which is understood to include provision for necessary cleaning and repair.

The use of part of a domestic dwelling as a home office does not necessarily involve a material change in use, depending on the fact and degree of the

particular case. In this instance a small home office above the garage would not be considered to represent an independent commercial use or a separate planning unit, based on the information provided.

Matters relating to the requirement for a bat survey were also raised by the Community Council, and are addressed in the following section. Matters relating to design have been addressed previously in this report.

It is understood that the proposed driveway would be formed in lock-block, however the proposed no-dig sub surface would include granular fill. The contradiction in submitted information could be readily addressed through use of a condition in the event that members are minded to grant planning permission.

It is noted that trees within the grounds of 32 Kemnay Place have not been included in the submitted survey.

### **Matters raised by Community Council**

Issues relating to encroachment onto an area of existing open space and impact on the adjoining Walker Dam LNCS have been addressed in the body of this report. It is recognised that a Bat Survey was not provided in support of this proposal, however this is accepted as no existing buildings would be removed and those trees to be removed have limited roosting potential when compared to those present in the area, particularly those more mature trees which form part of the LNCS. It should be noted that licensing arrangements relating to protected species remain applicable independently of the planning process.

### **Proposed Aberdeen Local Development Plan**

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination.

The foregoing can only be assessed on a case by case basis. In relation to this particular application, policies relating to design, residential areas and others of relevance to the proposal have not been subject to fundamental change, however there remain unresolved issues which may lead to further change in applicable policies, with the weight that those policies can be afforded diminished as a result. The site remains allocated within a residential area, where residential

development is supported in principle, and it is not considered that the Proposed Plan raises any material considerations warranting determination other than in accordance with the provisions of the extant Aberdeen Local Development Plan.

### **Summary**

It is concluded that the proposed development involves a number of areas of tension with the applicable policies, most significantly in relation to encroachment on existing green spaces and impact on trees and woodlands. Whilst the level of amenity afforded to residents would be satisfactory, with access to an enclosed private garden of a size consistent with its suburban setting, the erosion of an existing open space, which makes a contribution to local amenity and landscape character, and the impact on existing trees are considered to have an unacceptable cumulative impact. In this regard, it is considered that the proposal fails to demonstrate due regard for its context or make a positive contribution to its setting. For the reasons stated in full below, it is recommended that this application be refused.

## **RECOMMENDATION**

### **Refuse**

### **REASONS FOR RECOMMENDATION**

1. Whilst the general principle of residential development within a residentially zoned area is accepted, and the architectural form of the proposed dwelling is considered acceptable, its inappropriate siting relative to existing trees demonstrates a lack of due regard for context, and results in a situation where the proposed dwelling would not make a positive contribution to its setting, as required by policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan (ALDP).
2. The impact of the proposal on existing trees, both directly in the formation of the new driveway and in the longer term due to the inappropriate proximity of the new dwelling to retained mature trees, is not considered to be in accordance with policy NE5 (Trees and Woodlands) of the ALDP or the associated 'Trees and Woodlands' supplementary guidance.
3. The increased threat posed to mature retained trees has potential to result in adverse impact on the Walker Dam Local Nature Conservation Site (LNCS), and represents an area of tension with policy NE8 (Natural Heritage).
4. The development would result in encroachment onto an existing area of open space which, though of limited size, makes a positive contribution to local landscape character and visual amenity in this residential area. On that basis, it is considered that the proposal demonstrates a significant degree of tension with policies D6 (Landscape) and H1 (Residential Areas) of the ALDP.