

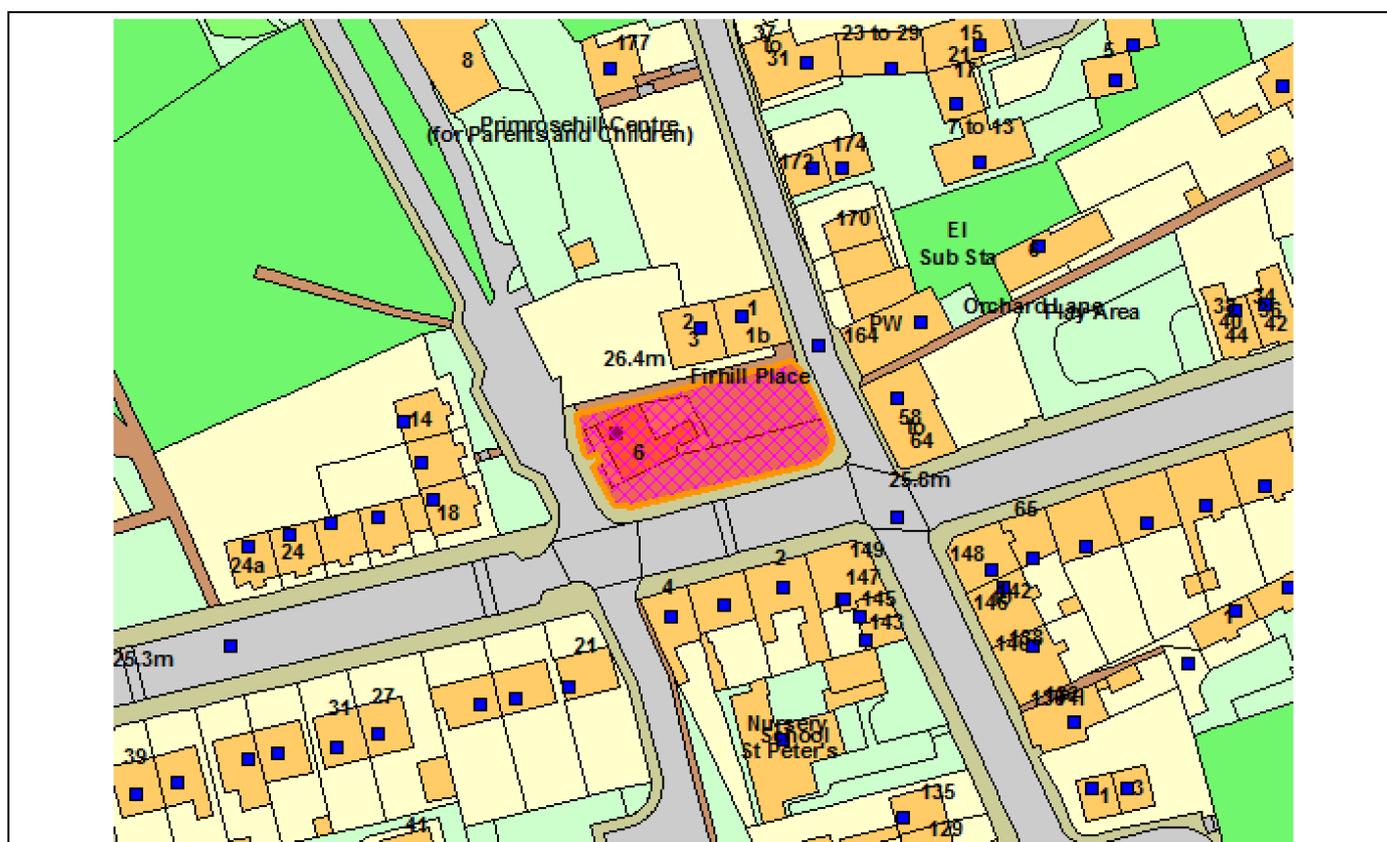


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 17th February 2022

Site Address:	Bank Cottage, 6 Sunnybank Road, Aberdeen, AB24 3NG
Application Description:	Erection of shed to rear (partly retrospective)
Application Ref:	211702/DPP
Application Type	Detailed Planning Permission
Application Date:	7 December 2021
Applicant:	Dr Anna Helene Katrin Riemen
Ward:	Tillydrone/Seaton/Old Aberdeen
Community Council:	Old Aberdeen
Case Officer:	Jemma Tasker



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RECOMMENDATION

Refuse.

APPLICATION BACKGROUND

Site Description

The application site relates to a historic, detached, single storey dwellinghouse and its associated front and rear curtilage, located on the corner of Sunnybank Road and Spital, Old Aberdeen. The dwelling is accessed via an access road to the north of the main Sunnybank Road thoroughfare, which serves a small number of dwellings and the Old Aberdeen Medical Practice. The dwelling has a west facing principal elevation fronting this road; Sunnybank Road bounds the site to the south; Spital bounds the site to the east; and to the north lies Firnhill Place. The rear curtilage, to which this application relates, spans an area of approximately 505sqm and slopes down from the rear elevation of the property towards both Spital and Sunnybank Road. The curtilage is bound by a low-rise boundary wall and shrubs along the southern boundary and due to level changes, this wall rises along the eastern boundary of the site to approximately 1.8m in height. The site is located within the Old Aberdeen Conservation Area.

Relevant Planning History

No relevant planning history.

APPLICATION DESCRIPTION

Description of Proposal

Detailed Planning Permission is sought part retrospectively for the erection of a shed to the rear (east) of the dwellinghouse.

The outbuilding is located in the south-east corner of the site, approximately 2.4m and 2.3m from the eastern and southern boundaries, respectively. It measures approximately 2.5m x 2.8m and has a pitched roof with an eaves height of c.1.7m and a maximum ridge height of 4.1m. A single entrance door with windows above and to the side are located on the west elevation, and two 0.6m wide windows are located on the east elevation. Finishing materials include timber cladding and a sedum roof.

As this application is partially retrospective – although it is noted that works are substantially completed – some parts of the proposal have not yet been carried out, including the installation of the sedum roof.

Amendments

None.

Supporting Documents

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R3C1CABZIEE00>

Design Statement by All Design (Scotland Limited) (November, 2021) – provides details of the existing dwelling, the site and the proposed structure.

Supporting Statement by Aurora Planning (February, 2022) – assess the application against permitted development criteria, details the environmental benefits of the outbuilding and suggests that once fully completed, the sedum roof and planting will soften the appearance of the structure.

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 5 timeous objections from the public and an objection from the Old Aberdeen

Community Council have been received and thus, the application falls out with the Council's Scheme of Delegation.

CONSULTATIONS

Old Aberdeen Community Council – Object to the application for the following reasons:

1. The shed is highly visible and out-of-keeping with its immediate vicinity.
2. The development does not achieve an appropriate standard of design for the location.
3. Development in this location may be both detrimental to the character of this area and disruptive to key views in the larger Conservation Area.
4. Steeply pitched roof is not a typical installation for Old Aberdeen and there are concerns regarding the sustainability of the sedum. This should be clearly presented, including technical details.

REPRESENTATIONS

10 representations have been received, 2 in support and 8 objecting to the development. The matters raised can be summarised as follows:

Support

1. Proportionate and pleasing enhancement to the property.
2. It is simple and well-designed and fits in well with the older style of the surrounding locale.
3. Because it is wooden it will look traditional and not out of place.

Objection

1. Privacy concerns as the large windows look directly into the windows of neighbouring properties.
2. The design is not in keeping with the granite buildings and cobbled streets of the Old Aberdeen area.
3. The structure is unacceptable in the prominent position it has been constructed on and is found to be very dominant.
4. Other applications for sheds have been refused in the surrounding area due to their visibility and impact on the Conservation Area.
5. Concerns regarding the fact that is going to be used for the nesting of birds and roosting of bats.
6. Photo No 2 indicating the position of the new shed is incorrect – it places the Alpine Chalet closer to the house and amongst trees when in fact it is located at the furthest distance from the house.

MATERIAL CONSIDERATIONS

Legislative Requirements

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 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.

National Planning Policy and Guidance

Scottish Planning Policy (SPP)

Historic Environment Policy for Scotland (HEPS)

Development Plan

Strategic Development Plan

The current Strategic Development Plan for Aberdeen City and Shire was approved by Scottish Ministers in September 2020 and forms the strategic component of the Development Plan. No issues of strategic or cross boundary significance have been identified.

Aberdeen Local Development Plan 2017 (ALDP)

Section 16 (1)(a)(ii) of the Town and Country Planning (Scotland) Act 1997 requires that, where there is a current local development plan, a proposed local development plan must be submitted to Scottish Ministers within 5 years after the date on which the current plan was approved. From 21 January 2022, the extant local development plan will be beyond this 5-year period. The Proposed Aberdeen Local Development Plan 2020 has been submitted to the Planning & Environmental Appeals Division at the Scottish Government in July 2021. The formal examination in public of the Proposed Local Development Plan 2020 has commenced with reporters appointed. Material consideration will be given to the Proposed Local Development Plan 2020, in the context of the progress of its examination, in the assessment of planning applications.

Given the extant local development plan is beyond its five-year review period consideration, where relevant, should be given to paragraph 33 of the Scottish Planning Policy (2014) which states: "Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

The following policies are relevant –

Policy CF1 – Existing Community Sites and Facilities

Policy D1 – Quality Placemaking by Design

Policy D4 – Historic Environment

Supplementary Guidance (SG)

The Householder Development Guide (HDG)

Proposed Aberdeen Local Development Plan 2020

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. 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 –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;
- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. Policies of relevance include:

Policy CF1 – Existing Community Sites and Facilities
Policy D1 – Quality Placemaking
Policy D2 – Amenity
Policy D6 – Historic Environment

Other Material Considerations

Old Aberdeen Conservation Area Character Appraisal and Management Plan (December, 2015)
Managing Change in the Historic Environment: Setting

EVALUATION

Principle of Development

The application site lies within an area on the ALDP Proposals Map covered by Policy CF1 (Existing Community Sites and Facilities), by virtue of its proximity to the University of Aberdeen campus which lies to the north. Policy CF1 is more specifically applicable to existing community sites or facilities such as those used for healthcare, education or other community uses, and it is not particularly relevant to residential properties, such as the application site. Nevertheless, the policy does note that:

'Where a CF1 area contains uses other than that for which the area has been designated and these uses make a positive contribution to the character and community identity of the area, any proposals for development or changes of use, whether or not for the community use recognised in the designation, will be opposed if a likely result would be significant erosion of the character of the area or the vitality of the local community.'

The proposed development relates to the curtilage of a residential property, situated within the historic setting of the Old Aberdeen Conservation Area. As such, in order to ensure compliance with Policy CF1, it is necessary to assess the impact of the proposed works on the character of the area and specifically the Householder Development Guide (HDG).

Scale and Design

The Design Statement submitted with the application states the proposed shed has been designed to provide an inside working area, specifically for holding garden utensils and carrying out potting. It is also stated that it has been designed to provide shelter for local wildlife and to accommodate climbing plants.

The Supporting Statement (by Aurora Planning) submitted by the applicant seeks to justify the proposal on the basis that, if it was 10cm lower than proposed, it would be permitted development under Class 3A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. However, the assessment provided within the Supporting Statement has failed to take account of the structure's location. Criteria set out under Class 3A states that development is not permitted by this Class if *'any part of the development would be forward of a wall forming part of the principal elevation or side elevation where that elevation fronts a road'*. In this case, the structure is located wholly forward of the side (south) elevation which fronts Sunnybank Road and thus could not be permitted development, even if the height is lowered by 10cm. Notwithstanding, the proposal submitted for planning permission is not permitted development and thus the Planning Authority is entitled, indeed required, to consider the design merits of the proposal, the impacts on amenity and the impact on the character of the Conservation Area.

The Supporting Statement also refers to Court of Appeal judgement of *Mansell v Tonbridge & Malling BC*, in relation to what is termed the "fallback position" being a material consideration. The fallback position in this case, according to the applicant's Planning Consultant, being that a lower shed could be erected under permitted development rights. However, and importantly, as noted

above, a reduction in height of the shed would not result in it being permitted development. Although Court of Appeal case relates to an entirely different type of proposal, it is acknowledged that the fallback position is, or can be, a material consideration. However, the weight to be attached to it as a material consideration is a judgement for the Planning Authority. In this case, as noted above, a shed of any size could not be erected on the site in the same position as the proposed shed as permitted development. Any such shed could not project forward of the side wall of the house and thus would have to be set much further into the site and thus further away from the Sunnybank Road boundary. Such a location would likely be among, or at least close to, the trees in that part of the garden, trees that are protected by virtue of being within a Conservation Area. It is unclear whether such a shed could be constructed in a location without interfering with the trees. For this reason, it is considered that little weight, if any, can be given to the fallback position and it cannot be used to provide justification for the development which otherwise fails to comply with policy and guidance and which would be harmful to the character and visual amenity of the Old Aberdeen Conservation Area.

Moving forward, in terms of the HDG, it is considered that the scale of the proposed shed, when viewed in isolation, would be appropriate in terms of the existing dwellinghouse and plot size and would not result in overdevelopment, given that the shed would occupy a footprint of some 7sqm within the curtilage, which extends to an area of some 505sqm, and would therefore remain within the 50% of development allowed in terms of the HDG.

However, under Policy CF1 (Existing Community Sites and Facilities), there is a fundamental requirement that development should not adversely affect the character of an area, and in terms of the basic principles of the HDG, due consideration is required to be given to the scale, context and siting of development. In the context of this application site, which lies within the Old Aberdeen Conservation Area, such consideration is clearly of particular relevance.

The HDG outlines specific criteria to be addressed when considering outbuildings, which would include this type of development, and in this respect there is further emphasis that such development should not have a negative impact on the character of the surrounding area, and a clear statement within the HDG which states that '*where highly visible and especially in conservation areas, detached garages should be of a scale and design that respects the prevalent context of the surrounding area*'. Although the HDG refers to detached garages here, it is nevertheless pertinent to all outbuildings and thus, this application.

In assessing the proposal against Policy D1 (Quality Placemaking by Design) of the ALDP, while this policy recognises that not all development will be of a scale that makes a significant placemaking impact, it recognises that good design and detail adds to the attractiveness of the built environment. Furthermore, under Policy D1, the design of the proposed development is considered within the context of the site and surrounding area, with factors such as siting, scale, massing, materials, design detail, proportions and the established pattern of development all deemed to be relevant in assessing its contribution and impact.

Taking all of the above into account it is considered that the proposal has failed to address the context of the site and its surrounding area. The shed would occupy a prominent location within this residential curtilage, on an open corner with limited screening. In terms of design, the proposal is deemed inappropriate, the 'Alpine chalet' inspiration – which, in turn, has created a large, wooden structure with an extremely steep roof – has not taken any cue from the original architectural design of the existing dwellinghouse or those in the surrounding area. Due to this steep pitch, with a maximum height of 4.1m on the east elevation, fronting Spital, the shed would be significant in terms of height, which is further exacerbated due to level changes between the application site and street level, heightening the shed's dominance within the streetscene. Although timber is generally considered an acceptable building material for outbuildings such as this, this would be more applicable in rear gardens that are minorly visible from a public viewpoint.

Due to the shed's siting and scale, the use of materials in this instance are not suitable for their context and fail to complement the existing building and surrounding area. The siting, form, height and overall quality of the shed fails to take account of its location, thereby having a negative impact on the character of the area and adversely affecting the built environment.

As such, the proposal would fail to address the expectations of the Supplementary Guidance: 'The Householder Development Guide' and would be contrary to the requirements of Policies CF1 (Existing Community Sites and Facilities) and D1 (Quality Placemaking by Design) of the ALDP.

Impact on the Historic Environment

The application site lies within the Old Aberdeen Conservation Area. Scottish Planning Policy (SPP) states that *'proposals for development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance'*. Historic Environment Policy for Scotland (HEPS) meanwhile outlines the importance of fully understanding the impact of decisions, with full consideration given to the level of impact of proposals on the historic environment, with negative impact avoided where possible. Policy D4 (Historic Environment) of the ALDP states that *'high quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings and conservation areas will be supported'*. Lastly, HES's 'Managing Change in the Historic Environment: Setting' document sets out that *'setting often extends beyond the property boundary or 'curtilage' of an individual historic asset into a broader landscape context'* and that *'finalised development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets'*.

As discussed, the shed is sited in a highly prominent location and thus, is clearly visible from within the Conservation Area. The immediate surrounding area is characterised by traditional properties and previously, this corner of the site was undeveloped and unobtrusive. However, as mentioned above, due to the siting of the shed in the south-eastern corner of the site and the limited screening available, the proposal results in an obtrusive structure in a highly visible location. The structure is of an incompatible design – by virtue of its roof pitch, materials and overall quality – which is not reflective of the original dwellinghouse or the surrounding area. Thus, the structure has little regard for its setting and is completely at odds with the prevailing character of the surrounding area. It would erode the character of the Conservation Area by introducing a visually disruptive feature to the streetscape, at odds with the character and appearance of the surrounding area and altering the existing balance and character of this part of the Conservation Area, to its detriment.

For the reasons stated above, it is considered that the proposed development would have an adverse impact on the character and appearance of the Old Aberdeen Conservation Area, and as such the proposal would be contrary to Policy D4 (Historic Environment) of the ALDP, and would fail to address the aims of SPP, HEPS and Managing Change in the Historic Environment: Setting.

Impact on Residential Amenity

No development should result in a situation where amenity is "borrowed" from a neighbouring property or there is an impingement on the amenity enjoyed by others. Due to the location of the shed in relation to neighbouring properties, it is considered the proposal would not result in any adverse impact on neighbouring properties in terms of daylight receipt or overshadowing. In terms of privacy, the shed would contain glazing on both the east and west elevations. It is considered the glazing on the west elevation, facing the dwelling, is minimal and causes limited privacy concerns. In terms of the glazing on the east elevation, this would be located some 11m from the properties opposite (58-64 Orchard Street). Although it is recognised that the non-habitable nature of a garden shed would ordinarily provide limited privacy concerns, given the structure sits in an

elevated position, the glazing would likely provide opportunities to directly overlook the aforementioned neighbouring properties at first floor level, and it is considered there would be an infringement on the privacy currently afforded to these properties.

In terms of the applicant's claim that the structure would encourage wildlife and biodiversity, specifically the encouragement of birds and bats, due to the relatively small, domestic scale of the structure, it is not considered that this would cause any undue harm to the amenity of neighbouring properties.

Overall, due to privacy concerns, the proposal would be contrary to the guidance contained within the HDG.

Environmental Considerations

As noted above, the applicant claims the structure would encourage wildlife. The potential environmental benefits within this proposal are noted and are generally welcomed. However, policy currently focuses on existing heritage assets and their protection and enhancement, and does not currently require individual development to provide environmental or biodiversity benefits. Thus, only limited weight can be attributed to this issue. This consideration does not outweigh the statutory duty on the Planning Authority to preserve and enhance the character and appearance of the Conservation Area.

Matters Raised by the Community Council

- 1. The shed is highly visible and out-of-keeping with its immediate vicinity.*
The shed's location has been discussed in the foregoing evaluation: 'Scale and Design'.
- 2. The development does not achieve an appropriate standard of design for the location.*
The design of the shed has been discussed in the foregoing evaluation: 'Scale and Design'.
- 3. Development in this location may be both detrimental to the character of this area and disruptive to key views in the larger conservation area.*
The impact on the Old Aberdeen Conservation Area has been discussed in the foregoing evaluation: 'Impact on the Historic Environment'.
- 4. Steeply pitched roof is not a typical installation for Old Aberdeen and there are concerns regarding the sustainability of the sedum. This should be clearly presented, including technical details.*
No details have been provided regarding this – it has not been demonstrated that a sedum roof can or cannot be used on such a steep roof pitch. Should members be minded to approve the application, it is recommended that a condition is attached regarding the provision of details of the proposed sedum roof and technical details of how it would be installed.

Matters Raised in Letters of Representation

- 1. Privacy concerns as the large windows look directly into the windows of neighbouring properties.*
Impact on neighbouring privacy has been addressed in the foregoing evaluation: 'Impact on Residential Amenity'.
- 2. The design is not in keeping with the granite buildings and cobbled streets of the Old Aberdeen area.*

The design of the outbuilding and its compatibility with the surrounding area has been addressed in the foregoing evaluations: 'Scale and Design' and 'Impact on the Historic Environment'.

- 3. The structure is unacceptable in the prominent position it has been constructed on and is found to be very dominant.*

This has been addressed in the foregoing evaluations: 'Scale and Design' and 'Impact on the Historic Environment'.

- 4. Other applications for sheds have been refused in the surrounding area due to their visibility and impact on the conservation area.*

Every application is assessed on its own merits. Nevertheless, this application has been assessed in terms of its location and impact on the Conservation Area.

- 5. Concerns regarding the fact that it is going to be used for the nesting of birds and roosting of bats.*

Within the Design Statement submitted as part of this application, it is stated that the structure is for holding garden utensils and carrying out potting, as well as providing opportunities for birds and bats. Given the domestic scale of the structure, there are limited concerns regarding the impact this would have on the amenity of neighbouring properties.

- 6. Photo No 2 indicating the position of the new shed is incorrect – it places the Alpine Chalet closer to the house and amongst trees when in fact it is located at the furthest distance from the house.*

It is noted the pictures provided within the Design Statement are not entirely clear. However, a site visit has been undertaken as part of this application and it is noted the details provided within the Site Plan and other drawings are accurate.

Proposed Aberdeen Local Development Plan 2020

In relation to this particular application, the Policies CF1, D1, D2 and D6 in the proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan 2017 and the proposal is not acceptable in terms of both Plans for the reasons previously given.

Summary

To conclude, although a minor addition to the rear garden ground in terms of footprint, the shed would result in an intrusive, dominant feature within this prominent location by virtue of its poor design, form and siting, to the detriment of the surrounding area.

For the reasons set out in the evaluation above, the proposal fails to preserve the character and appearance of the Old Aberdeen Conservation Area and is contrary to SPP; HEPS; Policies CF1 (Existing Community Sites and Facilities) and D1 (Quality Placemaking by Design) of the ALDP; and the associated Supplementary Guidance: 'The Householder Development Guide'.

The Planning Authority have concerns regarding the feasibility of installing a sedum roof on such a steep roofslope and no technical details have been provided regarding this. Therefore, should the Committee be minded to approve the application, it is recommended a condition is attached to the grant of consent requiring technical details of the roof to be submitted to the Planning Authority. Thereafter, the roof should be installed as per the agreed details, unless otherwise agreed in writing.

RECOMMENDATION

Refuse.

REASON FOR RECOMMENDATION

The proposal has failed to consider the context of the site and its surrounding area, and on the basis that the shed would occupy a prominent location within the rear curtilage and, from a design perspective, fails to relate to the original dwelling or surrounding area, it is considered that such development would be incompatible with the original dwelling, and have an adverse effect on the character of the existing built environment. The proposal is therefore considered to be contrary to the requirements of Policies CF1 (Existing Community Sites and Facilities) and D1 (Quality Placemaking by Design) of the adopted Aberdeen Local Development Plan 2017; the Supplementary Guidance: 'The Householder Development Guide'; and Policies CF1, D1 and D2 of the Proposed Aberdeen Local Development Plan 2020.

The proposal would fail to preserve the character and appearance of the Old Aberdeen Conservation Area in line with the legislative requirements of Scottish Planning Policy and Historic Environment Policy Scotland and would therefore also fail to address the requirements of Policy D4 (Historic Environment) of the adopted Aberdeen Local Development Plan 2017 and Policy D6 of the Proposed Aberdeen Local Development Plan 2020.

Taking the above into account and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations of sufficient weight that would warrant approval of the application in this instance.