

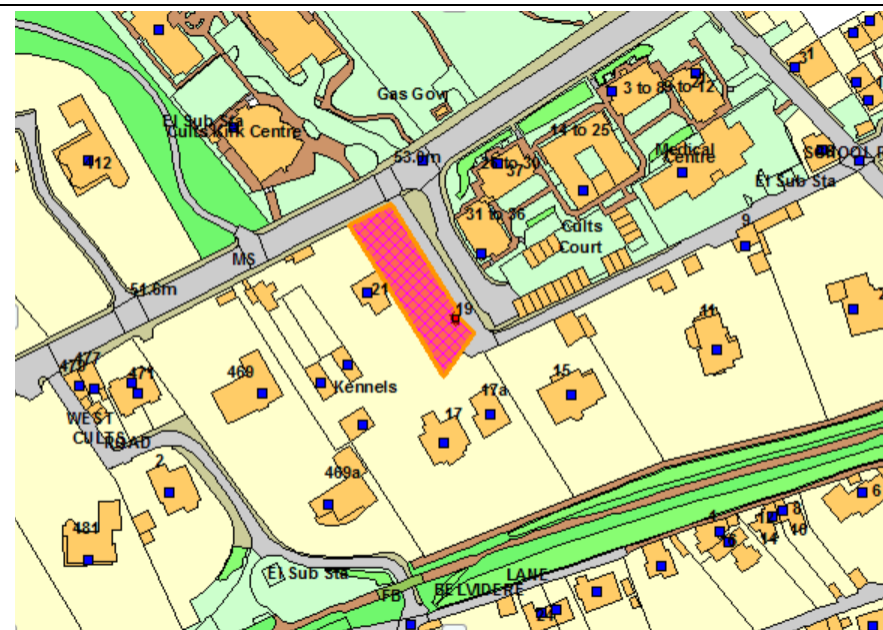


Planning Development Management Committee

Report by Development Management Manager

Committee Date: 23 June 2022

Site Address:	19 South Avenue, Aberdeen, AB15 9LQ,
Application Description:	Erection of 2no. dwelling houses with associated works
Application Ref:	220584/DPP
Application Type	Detailed Planning Permission
Application Date:	10 May 2022
Applicant:	3J Property Investments
Ward:	Lower Deeside
Community Council:	Cults, Bieldside and Milltimber
Case Officer:	Dineke Brasier



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RECOMMENDATION

Refuse

APPLICATION BACKGROUND

Site Description

The application site is a roughly rectangular site, measuring c.60m by c.16m and extending to c.925m² located on the corner of South Avenue and North Deeside Road within Cults. The plot was previously occupied by a single one and a half storey detached dwelling, which was demolished in 2014 in anticipation of the granting of a previous planning permission on the site for a single

replacement dwelling (ref: 141049). The site is now vacant and has been cleared for development. To the west is a neighbouring one and a half storey detached dwelling – 21 South Avenue; to the south is an area of hardstanding providing access to various dwellings, including number 21, and the kennels (17 South Avenue). Along the northern and eastern boundary was a traditional high granite wall enclosing the site from North Deeside Road and South Avenue, which was demolished in the winter of 2019/2020 under permitted development rights. The site is now cleared, levelled and secured with Heras fencing. A triangular section in the south west corner of the site carries a vehicular right of access to 21 South Avenue, which will need to be retained.

This section of South Avenue, though not private, is currently unadopted. It is a narrow stretch of road in a poor state of repair. It measures c.4.3m in width and has no dedicated footpath. To the east is the high granite boundary wall between South Avenue and Cults Court – a flatted development centred around the category C listed former Cults School, which has its own vehicular access from North Deeside Road. Apart from the application site, this section of South Avenue further serves numbers 15, 17, 17A and 21 South Avenue, including the Kennels business. Even though this part of South Avenue is connected to the remainder of the road further to the east, the section roughly between 15 South Avenue and the Cults Medical Centre is in such a deteriorated state of repair that it could be considered impassable for ‘normal’ cars, with only the weekly bin lorry using this stretch of road on a regular basis.

Relevant Planning History

- 141049 – Erection of detached dwelling with integral garage and associated works – Approved under delegated powers on 13th November 2014. No satisfactory evidence has been provided to demonstrate that this permission was lawfully implemented within three years of the issue of the decision notice, and as such, the Planning Authority considers that the permission has lapsed.
- 161721/DPP – Erection of four flats and associated parking – Refused on 9th February 2017 by Planning Development Management Committee (PDMC).
- 180143/DPP – Erection of four flats, associated parking, landscaping and part removal of boundary wall – Refused on 22nd March 2018 by PDMC, and subsequently dismissed on appeal by the Reporter of the Planning and Environmental Appeals Division of the Scottish Government (DPEA). The main reasons for refusal for this application were based on the following:
 - Overdevelopment of the site;
 - Adverse impact on character and appearance of the surrounding area;
 - Poor quality design; and
 - Adverse impact on residential amenity of 21 South Avenue and residents at Cults Court.
- 200533/DPP – Erection of four detached dwelling houses – Refused on 20th August 2020 by PDMC, and subsequently dismissed on appeal by the Reporter of the DPEA. The main reasons for refusal for this application were similar as those for 180143/DPP and included the following:
 - Overdevelopment of the site;
 - Adverse impact on character and appearance of the surrounding area;
 - Poor quality design; and
 - Adverse impact on the residential amenity of 21 South Avenue.
- 201630/DPP – Erection of 4 residential units (3 apartments and 1 house) with associated works – Refused on 22nd April 2021 by PDMC, and subsequently dismissed on appeal by the Reporter of the DPEA. The main reasons for refusal for this application were similar as those for the previous application, and included the following:
 - Overdevelopment of the site;

- Adverse impact on character and appearance of the surrounding area;
- Poor quality design; and
- Adverse impact on the residential amenity of 21 South Avenue.

APPLICATION DESCRIPTION

Description of Proposal

Planning permission is sought for the construction of two detached dwellings set in a north-south alignment. Plot 1 would see a three storey dwelling with a principal elevation facing north towards North Deeside Road. It would have a modern flat roofed design, with rectangular 'shapes' on the elevations, windows of various shapes and sizes. Finishing materials would include a mix of granite, timber linings and anthracite grey horizontal zinc cladding. It would measure c.12.5m by c.10m and would have a footprint of c.116m² as its shape is not completely rectangular. The overall height would be 9.5m. Accommodation would include a large open plan kitchen/dining area; separate family/dining room and a utility room on the lower ground floor; entrance hall; lounge; bedroom with en-suite bathroom and dressing room; office and separate shower room on the ground floor; and three bedrooms; two bathrooms and a dressing room on the first floor. A new vehicular access would be formed off North Deeside Road, with three parking spaces provided on the driveway.

Plot 2 would be located to the rear of Plot 1 and would be accessed from South Avenue. This two storey detached dwelling would have a similar modern flat roofed design using the same finishing materials. Accommodation would include a large open plan kitchen/dining/family area; utility room; lounge and WC on the ground floor; and three bedrooms with three bathrooms and an office on the first floor. The building would measure c.8.7m by c.12.3m and would thus have a footprint of c.106m². Two parking spaces would be provided on a driveway adjacent to the north elevation.

Amendments

Boundary wall along North Deeside Road and first part of South Avenue reduced in height to allow for visibility splay; and
Materials panel added.

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=RB NQ82BZFN500>

- Planning Statement by Aurora Planning

Reason for Referral to Committee

The application has been referred to the Planning Development Management Committee because more than 6 letters of objection have been received.

CONSULTATIONS

ACC - Environmental Health – The proposed development has residential units adjacent to the A93 (North Deeside Road) and there is potential for noise disturbance from road traffic noise on the residents. Provision of suitable mitigation measures may address these noise concerns. An appropriate noise assessment by a suitably qualified noise consultant to predicted impacts of likely noise sources on the proposed residential development and the necessary control measures is required. Submission of this noise assessment can be conditioned in this instance.

ACC - Roads Development Management Team – No objection. The application is for the erection of 2 houses with associated works at 19 South Avenue. The site is located in the outer city, outwith

any controlled parking zone. The proposals are for a 3 bedroom and a 4 bedroom house, each requiring 2 and 3 parking spaces respectively. This is proposed and acceptable. The access for the larger plot is onto North Deeside Road, but is an acceptable distance from nearby junctions. At the pre-application stage, a visibility splay was requested, this has been submitted. The wall to the front has been reduced in height to allow for suitable visibility for the access onto North Deeside Road. It is considered that visibility for the access onto South Avenue is acceptable due to the low levels of traffic, and the low speeds on this road. Both sites have acceptable bin storage. Ducting should be provided for EV charging to both properties – this is known as passive provision. The dropped kerb should be installed either by ACC or an approved ACC contractor.

ACC - Waste and Recycling – No objection. General comments provided in relation to bin collection.

Cults, Bieldside and Milltimber Community Council – Objection. Keen to see a sympathetic redevelopment of this long-derelict site, but feels that this new proposal still fails to address the main concerns with previous proposals.

It is quite clear from successive ACC planning refusals and subsequent refusal decisions by Scottish Government Reporters that the north-south section of South Avenue is seen as a natural divide between higher and denser development to the East and detached houses on generous plots to the West. The Community Council agrees with this view, and considers that this proposal fails to comply with ALDP Policies 2017 Policies H1 (Residential Areas), D1 (Quality Placemaking by Design) and associated Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

REPRESENTATIONS

A total of 25 letters of objection were received, although a total of 6 objections did not raise any specific matters. The other 19 letters of objections raised the following matters:

Design, scale, massing and impact on character of the area

- Overdevelopment of the site in relation to existing properties on South Avenue;
- South Avenue forms a clear divide between a more built-up area to the east and the low-density area to the west and south. The area to the west generally comprises single houses in large plots. Contextually, the proposal is out of character with the surrounding area;
- Plot ratio of 28.4% as shown on drawings for Plot 2 is only achieved through moving of the vehicular access to number 21, which would require agreement of both numbers 17 and 21 South Avenue. Plot 2 as therefore indicated is not achievable, and if the access is put back to its existing location, then the plot ratio will increase significantly;
- Proposed 'box-like' design of houses out of character in the surrounding area;
- Due to its visually prominent position on the junction of North Deeside Road and South Avenue, the design has an unacceptable impact on the character of the area;
- Development would create a new building line between the dwellings fronting onto North Deeside Road and the dwellings facing onto the Deeside Way. Previous findings from the Scottish Government Reporter and advice from the Planning Service in this matter is ignored;
- Site should only accommodate a single house;
- Design looks like 2 blocks of flats and not 2 houses;
- Hardstanding for parking is far too large as a percentage of the plot areas, especially for Plot 1;
- Ridge line of any new development should not exceed that of the dwelling at 21 South Avenue;
- Detrimental impact on the streetscape and visual amenity when viewed from both North Deeside Road and South Avenue and on the character and appearance of the surrounding area and would constitute an overdevelopment of the area.

Residential Amenity

- Overlooking between proposed houses;
- Overbearing impact, increased overlooking/loss of privacy and loss of residential amenity to 21 South Avenue;
- Adverse impact on privacy of 17A South Avenue;
- Height and massing of proposed buildings out of context with neighbouring dwelling at number 21. West elevation towers above number 21 to the detriment of their residential amenity. Plot 2 projects in front of the established building line, also to the detriment of number 21;
- Due to the height and proximity of proposed buildings adverse impact on residents of Cults Court due to increased overlooking/overshadowing.

Transport and Access

- No detail in relation to retaining structures has been submitted in relation to Plot 1 to ensure the integrity/stability of South Avenue;
- No information is provided to demonstrate that vehicles can safely access/egress Plot 2 from South Avenue, and Plot 1 from North Deeside Road;
- Access from Plot 2 too small as an engineer has advised that a far bigger turning area is required;
- Concerns in relation to the creation of additional vehicular access onto North Deeside Road in close proximity to junction with South Avenue.

Other Matters

- Proposed development is not significantly different from previous refused proposals;
- Same objections as previous applications;
- Plot 2 would require legal change to the access to 21 South Avenue as proposed boundary would not meet current boundary and shape of vehicular access;
- As with previous decisions, area of access into 21 South Avenue should not be calculated towards plot ratios;
- Type and style of boundary treatment to 19 South Avenue by deed must be agreed by the owner of number 17.

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.

Development Plan

Aberdeen City and Shire Strategic Development Plan (2020)

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)

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 –

- H1: Residential Areas
- D1: Quality Placemaking by Design
- T2: Managing the Transport Impact of Development
- T5: Noise
- R6: Waste Management Requirements for New Development
- R7: Low and Zero Carbon Building and Water Efficiency

Supplementary Guidance

Subdivision and Redevelopment of Residential Curtilages
Transport and Accessibility

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.

The following policies are relevant –

- H1: Residential Areas
- D1: Quality Placemaking
- D2: Amenity
- T2: Sustainable Transport
- T3: Parking
- R5: Waste Management Requirements in New Development
- R6: Low and Zero Carbon and Water Efficiency

Other Material Considerations

Planning history as listed above;

Appeal decision PPA-100-2089 issued on 5th September 2018 in relation to 180143/DPP;

Appeal decision PPA-100-2115 issued on 24th December 2020 in relation to 200533/DPP; and

Appeal decision PPA-100-2122 issued on 22nd November 2021 in relation to 201630/DPP.

EVALUATION

Principle of Development

The site is located in an existing residential area in Cults and policy H1 (Residential Areas) of the 2017 Aberdeen Local Development Plan (ALDP) applies. This policy sets out that residential development is acceptable in principle, provided it:

1. Does not constitute overdevelopment;
2. Does not have an unacceptable impact on the character and amenity of the surrounding area;
3. Does not result in the loss of valuable and valued open space; and
4. Complies with Supplementary Guidance, in this case Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages (SG).

The site constitutes an established residential curtilage and was previously occupied by a single detached one and a half storey dwelling. As such, it is considered not to be valuable and valued open space, and the proposal complies with criterion 3 as set out above. The remainder of the criteria will be discussed in detail below.

Impact on the character of the surrounding area

In addition to policy H1, policy D1 (Quality Placemaking by Design) of the ALDP sets out that all development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials. As part of that assessment, all development must follow a thorough process of site context appraisal to arrive at an appropriate proposal. Even though not all development will be of a scale to make a significant placemaking impact, all good design and detail adds to the attractiveness of the built and natural environment and consideration is key.

As part of this context, the historic development of an area provides a crucial element in this assessment and can set the parameters for development in relation to issues such as density; building line; massing; and appropriate scale of development. In this case, historic maps dating back to the 1860s show that the position of roads, including North Deeside Road, West Cults Road and South Avenue are generally fixed, with a number of dwellings constructed to the south of South Avenue, including detached properties at numbers 15 and 17, the latter being positioned immediately to the south of the application site, with the former being somewhat to the south east – forming a relatively straight building line. This map also shows a single building roughly in the position of 477/479 North Deeside Road, immediately fronting this road.

The historic map dating from the 1920s shows that the general character of the area is continually defined by additional development further west with dwellings roughly set halfway between North Deeside Road and the, now, Deeside Way. This clearly demonstrates the main characteristic of this area, which consists of dwellings in substantial plots set back from North Deeside Road with a generous garden to both the north and south of the property. This map also shows that the former Cults School which was later integrated into the flats at Cults Court has now been constructed fronting directly onto the North Deeside Road.

Finally, by the 1950s, the previous dwelling at 19 South Avenue that was demolished in 2014, and the kennel buildings were constructed. Again, the position of these buildings roughly followed the pattern of development and general building lines as set by previous development, especially in relation to the houses fronting directly onto North Deeside Road. Again, even though the plots in themselves were smaller, the properties were located centrally within the plot, keeping a clear separation between the dwelling and North Deeside Road.

It can be concluded from the above, that it is clear that the general pattern of development in this area comprises detached or semi-detached dwellings with a north-south orientation, and set roughly central within long, rectangular plots, with the historic exceptions of the former Cults School and the

building at 477-479 North Deeside Road. It should further be noted that both of these buildings were not purely residential as the first was originally constructed as a primary school serving the village and the latter historically has a commercial element on the ground floor.

It is further noted that in relation to density, this junction of North Deeside Road and South Avenue presents a transition between the higher density area, including the village centre of Cults and its shops and facilities to the east and the lower density area as described above to the west. Again, upon assessment of historic maps, it is clear that the village centre originally centred on the junction of Kirk Brae/North Deeside Road/Devenick Place and expanded east and westwards from there. This area has always had a higher density than the character area as described in detail above. Furthermore, it should be noted that, on the historic map dating from the 1950s mentioned previously, even though a property was constructed at the application site, there were still some undeveloped areas between the village centre and this area to the west of South Avenue. It is therefore clear that the site falls within this lower density, predominantly residential area, rather than the higher density, more mixed-use area of the village centre further to the east. This lower density area starts at this point, and then stretches westwards towards Bielside and Milltimber.

This character of the surrounding area, and the change when moving westwards past South Avenue is acknowledged in appeal decision for previous applications 180149/DPP, 200533/DPP and 201630/DPP by three different Reporters:

'When walking westwards along North Deeside Road past Cults Court, the character of development does change when passing South Avenue'. (Appeal reference PPA_100-2089, in relation to 180143/DPP);

'I find that the low level kennel buildings and the flatted properties at the edge of North Deeside Road are the exception rather than the rule. I do not find that the high density character of the flats at Cults Court generally continues westwards beyond South Avenue. I therefore agree with the Council's view that this transition westwards to a lower density character occurs at the point of the junction between South Avenue and North Deeside Road, rather than further to the west.' (Appeal reference PPA-100-215, in relation to 200533/DPP); and

'The appeal site is located within a predominantly low-density residential area where the resounding pattern of development is of detached houses set-back from roads in generous garden grounds. There are exceptions to this with three storey flats located on Cults Court (located immediately opposite to the east of the appeal site); retirement flats (located opposite the appeal site north of North Deeside Road); small blocks of flats at 431, 471 and 477-479 North Deeside Road; and a terrace of smaller houses along South Avenue. However, I find that these are not prevailing and do not follow the otherwise established relationship of buildings and spaces prevalent to the west along both sides of North Deeside Road; to the south of the appeal site; and the south of South Avenue in the vicinity of the appeal site.' (Appeal reference PPA-100-2122, in relation to 201630/DPP).

Policies H1 and D1 as set out above are further supplemented by general principles set out in Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages (SG). These include the following:

1. New dwellings must respect the established pattern of development formed by the relationship between buildings and their surrounding spaces (gardens etc);
2. The scale and massing of any new dwellings should complement the scale of surrounding properties;
3. The density of the surrounding area should be reflected in the development proposals for the new and existing property;
4. New dwellings should generally not project forward of any established building line;
5. The distance between proposed dwellings, and between proposed and existing dwellings (i.e. between gable ends) should be similar to that predominating on the street; and

6. The ridges or wallheads of any new dwellings should be no higher than the ridges or wallheads on adjoining dwellings.

The overall application site measures to c.925m², similar to previous applications, and includes an area in the south west that will need to be retained to provide a vehicular right of access towards 21 South Avenue and can thus not be included in the developable area of the site. This position is again supported by the Reporter in relation to the appeal decision for application 201630/DPP:

'However, the housing plot calculation ... includes the triangle of land at the south of the appeal site allocated for access, car parking and bin storage. This area of land has a functional relationship to the proposed house and is within the appellant's ownership, but it would not be immediately adjacent to the proposed house being severed from it by the access track (...) Consequently, I agree with the council that for the purposes of applying the density calculation to the 'individual curtilage', this area of land should be excluded.' (Appeal reference PPA-100-2122, in relation to 201630/DPP).

It should be noted though that the size and shape of this area has been altered and has decreased in size when compared against previous applications. However, it should be noted that there will be separate legal matters to be resolved between the applicant and other interested parties to ensure this altered vehicular right of access can be implemented. The applicant claims the changes to the access to the neighbouring property at 21 South Avenue are achievable, however, the owners of that property cast doubt on this, stating in their written representation *"legally this is not achievable"*. If this proposed realignment of the vehicular access cannot be delivered and the existing layout remains in place, then, as a consequence, the developable area pertaining to Plot 2 would reduce, thus increasing the development ratio on this site.

Assuming the altered right of access is deliverable, the shape and size of Plot 2 has changed and has increased somewhat compared to the previous application 201630/DPP and now measures c.372m². The footprint of the proposed dwelling extends to c.106m², thus resulting in a development ratio of 28%. The alternative scenario, in which the revised access could not be delivered, would see the developable area of the overall site reduced from 925m² to 850m², in line with the Committee Report for previous application 201630/DPP and accepted by the Reporter in his appeal decision following its refusal. This would result in an overall plot size of 348m² for Plot 2, and a development ratio of 30.5%.

Plot 1 extends to c.502m², with the proposed dwelling having a footprint of c.116m², resulting in a development ratio of 23%. Overall development on the site, excluding the area comprising the vehicular right of access, and based on the above figures, would be 25.2%. Again, when taking account of the vehicular access into its current position, so assuming a reduced developable area, this figure would increase to 26.1%. As set out above, SG sets out in criteria 3 that densities should reflect those in the surrounding area. It further continues to set out that, as a general guide, no more than a third of the site for each individual curtilage should be built upon. The proposal would meet this second part, as development ratios for both plots and the site as a whole would be less than 33%. However, the SG clearly sets out that development ratios should be in line with the surrounding area. Overall development ratios in this part of Cults are low due to the prevailing character of this area as set out in detail above. Development ratios are around 14% for both nearby dwellings at 15 and 21 South Avenue. In relation to this aspect of the proposal, even though the previous application 201630/DPP resulted in higher development ratios compared to this current application, the Reporter stated the following:

'While higher density is encouraged, and the plot for the flats would fall within the limits of the Council's guidance, I consider that the appeal site density and the density of the individual curtilages would not reflect the prevailing and established low density character of the area. As concluded above, the design and layout of the proposal would compromise the local environment and, therefore, not justify a higher density' (Appeal reference PPA-100-2122, in relation to 201630/DPP).

This text from the Reporter's decision letter clearly sets out that the Reporter considered there were other issues in relation to the overall general character and appearance of the surrounding area which should be taken into account when considering the appropriate density of a proposal. The proposed density and how this proposed density would fit in the context of the surrounding area is in this instance of greater importance than just meeting the figure of 33% as set out in SG. As such, the figures proposed as part of this application, especially for Plot 2 would be substantially higher than those in the surrounding area and are considered to be out of context in the surrounding area and would thus constitute an overdevelopment of the site and have a detrimental impact on the character and appearance of the surrounding area.

Apart from the development ratio, there are other aspects demonstrating that the proposal would constitute an overdevelopment of the site and would have a detrimental impact on the character and appearance of the surrounding area. The proposal is for two detached dwellings in a north-south alignment. Plot 1 would be set back from North Deeside Road and would have a similar building line as the existing property at 21 South Avenue. Plot 2 would be located roughly mid-way between 21 South Avenue and 17/17A South Avenue. As set out above, the character of the surrounding area is represented by substantial detached dwellings set in long, generous gardens. Here, due to the proposed north-south alignment of the dwellings and the proposed level of development, Plot 1 – the larger of the two dwellings, would have a rear garden with a depth of c.7m, whereas Plot 2 would have a rear garden with a varying depth ranging between c.5m and c.11m due to the shape of the southern site boundary. In section 3.5, SG sets out that houses up to two storeys (Plot 2) should have a rear garden with a minimum length of 9m, whereas dwellings of more than two storeys (Plot 1) should have garden lengths of at least 11m. As such, given that Plot 1 would have a garden which does not meet this minimum criteria, and that Plot 2 has a garden which only meets this criteria in part, it can be considered that this demonstrates that the level of development proposed exceeds the capacity of the site as it would be out of context with the character of the surrounding area, as set out in criteria 1 and 3 as listed above, as it would not represent a development of two detached dwellings set in generous gardens.

Currently, there are two clear building lines with north facing dwellings fronting onto North Deeside Road, and dwellings with a south facing principal elevation fronting onto the Deeside Way. Plot 1 follows the first building line and is set in line with 21 South Avenue. Plot 2 on the other hand would sit between these two existing building lines. The introduction of a new building line between Plot 1 and the existing dwellings at 15, 17 and 17A South Avenue further shows that the proposal would represent an overdevelopment of the site and does not take sufficient consideration of its site's context. In this respect, a similar site layout with two buildings sitting in a north-south alignment was presented in the previous proposal for 201630/DPP for the construction of a block of 3 flats and a single detached dwelling. The Reporter in his appeal decision on that application commented as follows:

'In addition, there is no established secondary building line following the location of the proposed house. Two properties set well back from North Deeside Road (west of West Cults Road) and a medical centre east along South Avenue are not sufficient to persuade me otherwise. Examples of residential properties sitting behind one-another along a secondary building line are not evident or established. I find that the positioning of the proposed house runs counter to the general pattern of development in the area.' (Appeal reference PPA-100-2122, in relation to 201630/DPP).

As such, and taking account of this previous appeal decision, it is considered that the introduction of the second building line would not respect the character of the surrounding area. Furthermore, the proposed positioning of Plot 2 to the rear of Plot 1 would ensure that the distance between the two dwellings is relatively short and would consist of a 7m rear garden serving Plot 1 and the 6m wide driveway serving Plot 2, resulting in a total distance of 13m between the two properties. Again, this relatively limited distance between the two dwellings would not sit comfortably within the wider

streetscene, especially given that the rear garden of Plot 1 would face onto the side elevation of Plot 2 and would thus feel out of context in the wider character of the surrounding area. It is noted that this distance has increased somewhat when compared to the previous application 201630/DPP. However, it is considered that this slight amendment is not sufficient to overcome this conflict with the character of the surrounding area and would present an alien form of development.

It is for the above reasons that the proposal would constitute an overdevelopment of the site; is considered to have an adverse impact on the character of the surrounding area, and would have a significant detrimental impact on the visual amenity of the surrounding area, in direct conflict with policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan and associated Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

Scale, design and massing

It is noted that, when compared to the previous application 201630/DPP, the footprint of Plot 1 has been reduced from c.144m² to c.116m² which roughly equates to a reduction in the width of the dwelling by 1m from c.13.5m to c.12.5m. The design and finishing materials of the dwellings have also been altered. Whereas the previous proposal incorporated a mono-pitched roof, which lowered towards 21 South Avenue, the current proposal is for two fully flat-roofed dwellings.

The properties would have a modern design, and a rectangular shape using a variety of finishing materials including granite, timber linings and zinc cladding. For Plot 1, the north elevation facing onto North Deeside Road would appear to be two storeys in height, with the lower ground floor predominantly being underground when facing north. However, given the proposed 2m height of the boundary wall and change in levels along South Avenue, the building would appear three storeys in height upon approach from the east towards the west and when seen from the prominent junction at North Deeside Road/South Avenue. This third storey would thus be significantly elevated over South Avenue and would read out of context with dwellings in the surrounding area. This is further aggravated through the use of the flat roofs, which would present additional massing when viewed from either South Avenue or North Deeside Road, whereas the typical context would be that of a detached dwelling with a sloping roof, thereby taking massing and bulk away from North Deeside Road.

Furthermore, the use of the flat roof and the regrading of ground to provide a near level access from North Deeside Road to the front, would ensure that the building would sit uncomfortably high and would appear oppressive in relation to the existing dwelling at 21 South Avenue.

21 South Avenue, akin to neighbouring properties further west, sits significantly below and is sheltered from North Deeside Road, with only part of the sloping roof visible from this main road. The proposed dwelling however would have both its ground and first floor clearly visible from North Deeside Road, with this view further enhanced through the need to have a lower 1m boundary wall along the North Deeside Road frontage to allow sufficient visibility for the new access unlike the traditional high granite boundary walls further west along North Deeside Road. As such, whilst the character of this part of North Deeside Road is characterised by detached dwellings set back from, at a lower level than and screened from North Deeside Road by high boundary walls and mature trees so that they are not apparent in the streetscape, the proposed dwelling would be extremely visibly and overbearing in views along this road. The dwelling would thus be significantly more apparent in the streetscene and would not respect the character of the surrounding area as set out above. In addition, due to this change in levels between the two dwellings, the entire area to the front of Plot 1 would be artificially raised and would be at a higher level than both garden and ground floor level of 21 South Avenue. Therefore, when viewed from their front windows, this building and the associated area of raised ground to the front would have an oppressive and detrimental impact on the outlook of this property.

In addition, the use of high-level slot windows in the east elevation of this building are considered to have a further detrimental impact on the appearance of the building when viewed on approach from North Deeside Road, and this feature is not considered to contribute positively to the street scene, but is rather a further indication that the building does not fit comfortably in its plot, and is not making best use of its prominent position within the street scene. In relation to the slot windows, it is noted that the Reporter in his decision stated the following in relation to the previous design for Plot 2:

'I consider that the principal frontage to South Avenue would be bland in appearance due to the solid bulk of the elevation with only a few windows which would be uneven and orientated both in portrait and landscape' (Appeal reference PPA-100-2122, in relation to 201630/DPP)

The proposed design and massing of Plot 2, though significantly lower and smaller, is also considered out of context in the surrounding area. The mix of windows and window proportions, including the need to use high level windows in the north elevation to ensure sufficient privacy between facing windows between Plots 1 and 2, are not considered appropriate in the site context. Furthermore, the need to integrate these high level windows is a further indication that the proposal does not sit comfortably within its plot and that the resultant would be an overdevelopment of the site.

For these reasons, it is considered that the proposed design, scale and massing of especially, but not only, the building at Plot 1 has a detrimental impact on the character and appearance of the surrounding area and visual amenity.

Residential amenity

Future residents

The proposed layout of the dwellings would ensure that all rooms would receive sufficient natural light and would not be unduly overlooked by either the other property or any neighbouring dwellings. In addition, the amount of private garden provided for Plot 2, whilst not technically to the rear of the dwelling, but instead located to its side, would nevertheless in this instance be considered acceptable as in general it would comply with the minimum 9m depth as set out in SG. However, it should be noted again that this size garden can only be achieved if the vehicular right of access as shown on the submitted drawings can be constructed. If that were not the case, then this garden would be significantly smaller, potentially not meeting the minimum 9m length requirement and thus being unacceptable.

The three storey dwelling at Plot 1 would only have access to a garden with a maximum depth of 7m. SG clearly sets out in section 3.5 that dwellings of more than 2 storeys should have garden lengths of at least 11m. Given that this proposal does not meet this criterion, it is considered that insufficient outdoor external amenity space is provided, and the proposal would thus not meet the requirements of policies H1 and D1 in that respect and associated Supplementary Guidance.

Neighbouring properties

21 South Avenue

No development should result in a significant adverse impact upon the privacy afforded to neighbouring residents, both within dwellings and in their private garden ground/amenity space or have a similar unacceptable adverse impact on natural day and sunlight levels enjoyed by dwellings.

The main dwelling to be affected by this proposal is 21 South Avenue, the property immediately to the west of the application site. The ground floor level of this dwelling sits c.2m lower than the entrance level of Plot 1 when viewed from North Deeside Road. Due to its three storey height, the proposal would result in a solid wall with an overall height of c.9.5m rising high above the eaves, sloping roof and ridge height, immediately adjacent to 21 South Avenue. It is noted that the previous proposal had a mono-pitched roof, resulting in a lower eaves level of c.7m adjacent to the boundary

with 21 South Avenue. The Reporter in his appeal decision stated the following:

'Although at a reduced height of 7 metres, the elevation facing 21 South Avenue would appear as a solid mass sited almost immediately beside the property boundary, rising well above the existing and proposed screening, and appearing beyond the sides of the pitched roof of that property. The overbearing impact of the elevation on residents would be emphasised due to the creation of an artificial platform...' (Appeal reference PPA-100-2122, in relation to 201630/DPP).

It is thus considered that this latest proposal, although not formed on an artificial platform, would nevertheless be 2.5m higher adjacent to 21 South Avenue than the proposal previously refused application and which was dismissed on appeal, would have an even greater unacceptably overbearing, dominating and oppressive impact, resulting in an additional adverse impact on the residential amenity of this neighbouring property.

Furthermore, the proposal would result in the construction of two buildings at a short distance from the boundary with 21 South Avenue, which, taken together with the proposed regrading of ground and engineering works to the front, and due to their scale, flat-roofed design and associated massing, is considered to have a detrimental overbearing impact on this existing dwelling to the detriment of their residential amenity. Taken together, this aspect of the proposal is considered to be contrary to the requirements of policies H1 and D1 of the ALDP.

Other surrounding dwellings

The distance between the flats at Cults Court and either building would be c.17m. This gap would consist of South Avenue, the high granite boundary wall surrounding Cults Court and its associated car park, access road and a number of mature trees. Plot 1 only includes high level slot windows looking out towards Cults Court, whereas Plot 2 has two small secondary ground floor windows which look out directly onto the reinstated boundary wall, and two windows on the upper floor. One of these is described on the drawings as being an office, although this room would be sufficiently large to act as a bedroom, with the other being a further high level slot window serving as a secondary window for a bedroom. It is considered that, given its position facing out onto a public road and the distance between the window and habitable windows in properties in Cults Court, it would not have an unacceptable harmful impact on overlooking/ level of privacy for the flats in Cults Court.

The distance between the rear elevation of Plot 2 and the dwellings at 17 and 17A South Avenue would exceed the 18m minimum facing distance between windows and thus the proposal would not have an adverse impact on their residential amenity.

Parking and Access

The proposal would see the creation of a new vehicular access onto North Deeside Road serving Plot 1. Roads Development Management have commented on the application and advised that this proposed access would meet the minimum distance required from the junction between South Avenue and North Deeside Road. In addition, a drawing submitted as part of the application suitably demonstrated that the required visibility splay for cars entering North Deeside Road from the new access can be achieved. It is noted that due to the requirement to create the visibility splay, the proposed boundary wall adjacent to North Deeside Road and for the first section along South Avenue needs to be of a lower height not exceeding 1m in height. The adverse impact on the character and appearance of the surrounding area of this part of the proposal is discussed above.

Supplementary Guidance on Transport and Accessibility sets out in Section 6.2 that there is a

presumption against granting permission for a driveway onto a trunk road or primary distributor road. North Deeside Road is classed as an A road, and as such the proposed new access onto North Deeside Road would be contrary to this section of the SG. However, given that cars can enter and exit the site in a forward gear, Roads Development Management did not raise any concerns.

Due to the low levels of traffic and relatively low speed of cars using this section of South Avenue, it is considered that the proposed new access serving Plot 2 can be adequately achieved.

The submitted site layout shows that Plot 1 would have access to 3 on-site parking spaces, whereas Plot 2 would have a driveway with 2 parking spaces. Supplementary Guidance on Transport and Accessibility sets out that parking standards for a three bedroom house (Plot 2) is 2 spaces and for a four bedroom house (Plot 1) is 3 spaces in Cults. As such, the proposed number of on-site parking spaces is accepted. Furthermore, the submitted site layout demonstrates that there would be provision for an EV charging point for both plots thereby meeting this criterion from the SG as well. The installation of these EV charging points can be secured through a suitably worded condition if the Committee were minded to approve the application.

Other matters

Noise

The site is adjacent to the A93 North Deeside Road, which is a main road west from the city centre out towards Bieldside, Milltimber and Deeside. Due to the high volume of traffic, Environmental Health advise the use of a condition to ensure that adequate sound insulation measures were implemented in the construction of the residential units. Again, if the Committee were minded to approve the application, then this could be conditioned.

Waste

Both properties would have a bin store within their residential curtilage that would provide space for all necessary bins. This aspect of the proposal would therefore be considered acceptable.

Low and Zero Carbon Buildings

The Planning Statement submitted alongside this application sets out that the buildings would be designed using a fabric first approach, and would incorporate large glazed areas to the south to maximise solar gains as well as being highly insulated and using triple glazing. In addition, it is intended to install air source heat pumps to reduce reliance on natural gas and to employ water saving measures. These measures would be considered acceptable, and if the Committee were minded to approve the application, then these could be secured through a suitably worded condition.

Proposed Aberdeen Local Development Plan

In relation to this particular application, policies H1 (Residential Areas), D1 (Quality Placemaking), T2 (Sustainable Transport), R5 (Waste Management Requirements in New Development) and R6 (Low and Zero Carbon Buildings and Water Efficiency) in the Proposed Aberdeen Local Development Plan 2020 (PALDP) substantively reiterate those in the adopted Local Development Plan. In relation to policies H1 and D1, the proposal is not acceptable in terms of both Plans for the reasons previously given.

Policies D2 (Amenity) and T3 (Parking) are both new policies. Policy D2 provides additional emphasis on the need to ensure that development would not have a significant detrimental impact on the residential amenity of proposed and existing dwellings. In this case, for the reasons provided in the evaluation above, it is considered that the proposal would have an unacceptable adverse impact on the residential amenity of the occupiers of the neighbouring property 21 South Avenue. As such, the proposal would not comply with this policy.

Policy T3 sets out that sufficient parking should be provided within new residential development in

compliance with standards as set out in relevant SG. In addition, it further emphasises the need for provision of electric vehicle charging infrastructure. Subject to the aforementioned condition on EV charging, it is considered that the proposal broadly complies with this policy with further details to be submitted as part of a suitably worded condition.

Matters arising from Community Council objection

All matters raised in the objection from the Cults, Bielside and Milltimber Community Council are addressed in the evaluation above.

Matters raised in letters of objection

- All material planning matters as set out previously have been addressed throughout the report.
- Matters in relation to the legal matters pertaining the change in position of the vehicular right of access and the type and style of boundary treatment are a civil matter;
- All applications are assessed on their own merits and the fact that this proposal is a resubmission following previous refusals is addressed in the report.

Conclusion

The proposed development is contrary to Policies H1 and D1 of the Aberdeen Local Development Plan and its associated supplementary guidance "The Subdivision and Redevelopment of Residential Curtilages". The proposed development does not take sufficient cognisance of the site context, would have a significant detrimental impact on the streetscape and visual amenity when viewed from both North Deeside Road and South Avenue and on the character and appearance of the surrounding area, and would constitute an overdevelopment of the site. This is reflected through the introduction of a new, secondary building line between existing dwellings fronting onto South Avenue, the relatively high plot development ratios and the insufficient garden ground for Plot 1. The proposed design of the building, in particular its scale, height, massing, use of flat roofs and high level windows on prominent elevations and its elevated position in relation to South Avenue, would result in a building that would be unduly prominent in views along North Deeside Road and which would have an overbearing impact on the street scene and would be out of context in relation to other dwellings along North Deeside Road. This would have a detrimental impact on the character and appearance and visual amenity of the surrounding area.

The residential amenity of the occupants of 21 South Avenue would be adversely affected due to the overall bulk and volume of development alongside the east boundary of the residential curtilage of 21 South Avenue. The construction of a solid wall with an overall height of c.9.5m at a short distance next to this dwelling would have an overbearing and oppressive impact on the existing 1.5 storey dwelling.

Furthermore, this current proposal does not adequately address the main issues leading to the refusal of the previous four applications on this site - three of which were dismissed on appeal by three different Reporters of the Scottish Government. As set out in detail above, the current proposal does not adequately address the site context, character and appearance of the surrounding area especially in relation to its design; position on the prominent North Deeside Road/South Avenue junction and introduction of a second building line between the existing properties 21 and 17/17A South Avenue; would continue to represent an overdevelopment of the site; and would have an adverse impact on the residential amenity of 21 South Avenue.

However, if the Committee is minded to approve the application, then it is requested that details in relation to materials; landscaping; boundary walls; levels; low and zero carbon measures; noise attenuation measures and implementation of EV charging points are secured through suitably worded conditions.

RECOMMENDATION

Refuse

REASON FOR RECOMMENDATION

1. The proposed development does not take sufficient cognisance of the site context, would have a significant detrimental impact on the streetscape and visual amenity when viewed from both North Deeside Road and South Avenue and on the character and appearance of the surrounding area, and would constitute an overdevelopment of the site. This is reflected through the introduction of a new, secondary building line between existing dwellings fronting onto South Avenue; relatively high plot development ratios; short rear gardens that, in the case of Plot 1, does not meet the minimum length as set out in Supplementary Guidance "The Subdivision and Redevelopment of Residential Curtilages"; and short separation distances between the two buildings, all of which would have an adverse visual impact on the character and appearance of the surrounding area.

All of these aspects would result in the proposal not complying with the relevant parts of policies H1 (Residential Areas); D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; policies H1 (Residential Areas) and D1 (Quality Placemaking) of the 2020 Proposed Local Development Plan and relevant sections of Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

2. The proposed design of the building, in particular due to its scale, height, massing, use of flat roofs and high level windows on prominent elevations; and elevated position in relation to South Avenue, and, due to the lower boundary wall and artificial plateau to the north of the building, when viewed from North Deeside Road in relation to neighbouring properties along North Deeside Road, would result in a building that would be unduly prominent in views along North Deeside Road; would have an overbearing impact on the street scene; and would be out of context in relation to other dwellings along North Deeside Road. This would have a detrimental impact on the character and appearance and visual amenity of the surrounding area.

All of these aspects would result in the proposal not complying with the relevant parts of policies H1 (Residential Areas); D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; policies H1 (Residential Areas) and D1 (Quality Placemaking) of the 2020 Proposed Local Development Plan and relevant sections of Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

3. The overall bulk and volume of development alongside the east boundary of the residential curtilage of 21 South Avenue, in addition to the construction of a solid wall with an overall height of c.9m at a short distance next to this dwelling, is considered to have an overbearing and oppressive impact on the existing 1.5 storey dwelling at 21 South Avenue to the detriment of their residential amenity.

All of these aspects would result in the proposal not complying with the relevant parts of policies H1 (Residential Areas); D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the 2020 Proposed Local Development Plan and relevant sections of Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.

4. The proposed rear garden serving Plot 1 with a maximum length of 7m would not meet the minimum criteria in relation to provision of external garden space as set out in Supplementary Guidance Subdivision and Redevelopment of Residential Curtilages. Given the size of the

dwelling proposed, it is therefore considered that insufficient external amenity space would be provided to adequately serve a dwelling this size.

The proposal would therefore not comply with the relevant parts of policies H1 (Residential Areas); D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; policies H1 (Residential Areas); D1 (Quality Placemaking) and D2 (Amenity) of the 2020 Proposed Local Development Plan and relevant sections of Supplementary Guidance on Subdivision and Redevelopment of Residential Curtilages.