

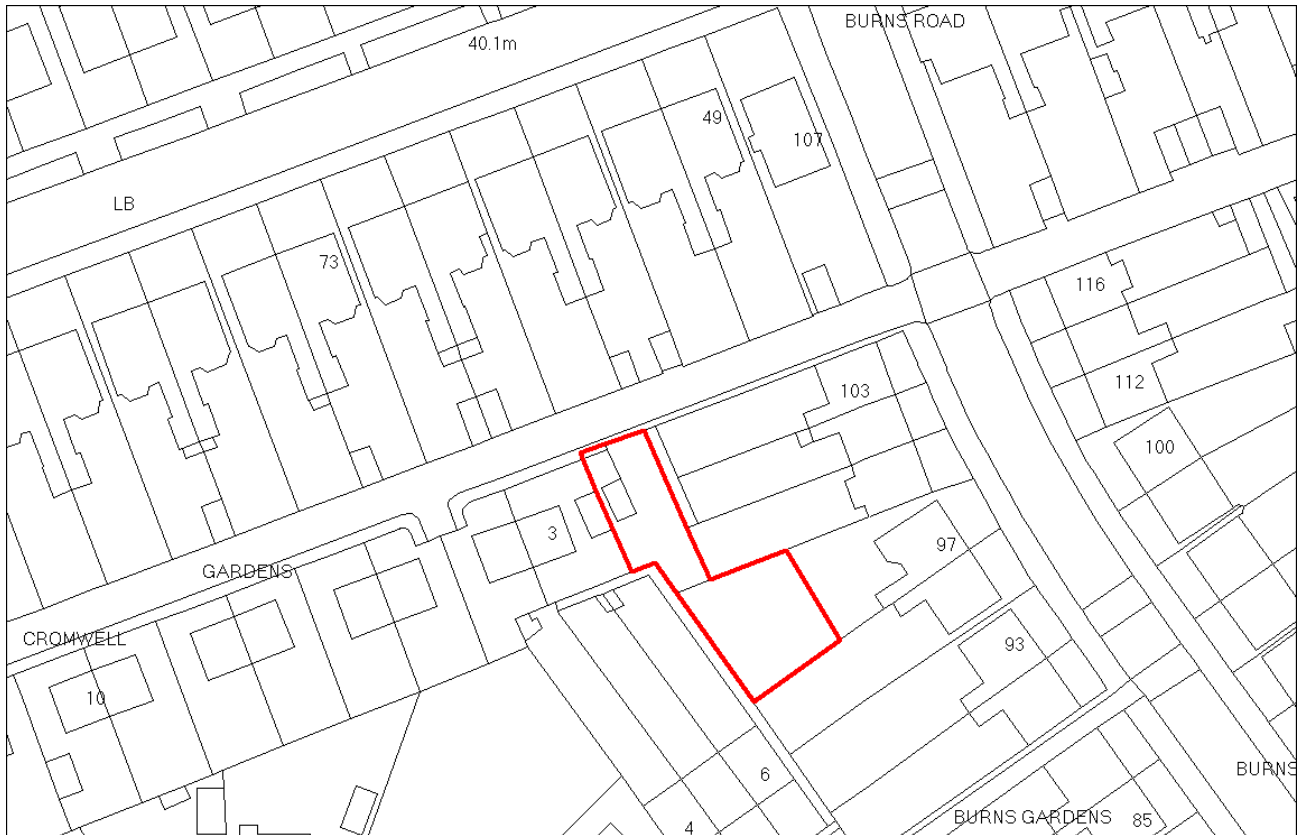
GAP SITE, CROMWELL GARDENS,  
ABERDEEN

ERECTION OF DETACHED ONE AND A HALF  
STOREY HOUSE

For: Mr Colin McCrae

Application Type : Detailed Planning Permission  
Application Ref. : P121571  
Application Date: 06/11/2012  
Officer: Gavin Evans  
Ward : Hazlehead/Ashley/Queen's Cross(M  
Greig/J Stewart/R Thomson/J Corall)

Advert :  
Advertised on:  
Committee Date: 21 March 2013  
Community Council : No response  
received



**RECOMMENDATION: Refuse**

## **DESCRIPTION**

The application site is located to the rear of existing properties on the western side of Burns Road, near the junction of Burns Road and Cromwell Gardens. At present, the majority of the application site relates to an area of garden ground to the rear of 97 Burns Road, while the remainder of the site consists of a narrow strip of land leading from Cromwell Gardens to this garden ground. The aforementioned strip of land is somewhat overgrown, having been enclosed from the public street by a trellis and has been planted with several apple trees. It is unclear whether this area formed part of the original garden ground at number 97, as it has the appearance of having originally been an access lane. At present, this area is relatively open, with low boundary walls of approximately 1.2m enclosing much of the site. The shape of the site is such that there is a central 'pinch-point' between the Cromwell Gardens frontage and the area of ground obtained from the rear garden of number 97 Burns Gardens. At its narrowest, this reduces the width of the site to approximately 5m.

## **RELEVANT HISTORY**

Application A8/1078, submitted in June 2008, sought outline planning permission for the construction of a new dwellinghouse to the rear of 97 Burns Road, with access taken from Cromwell Gardens. The application site at that time was the same as that which is the subject of this application, however the siting of the proposed dwelling was different. At that time, the proposed new house would have been sited with no direct street frontage to either Burns Road or Cromwell Gardens, appearing somewhat 'landlocked' amongst existing residential plots. Application A8/1078 was refused at Planning Committee on 28<sup>th</sup> August 2008, for the following reasons;

- 1. that the proposed dwelling is not, by way of its siting and high site density relative to the surrounding area, considered to have been designed with due consideration for its context, or to make a positive contribution to its setting, and is therefore contrary to Policy 1: Design of the Aberdeen Local Plan.*
- 2. that the proposed dwelling, by way of its inappropriate siting in relation to the accepted street form, and lack of a public face to the street, is considered to be contrary to Policy 6: 'Design and Amenity' of the Aberdeen Local Plan.*
- 3. that the proposed development, by way of its insufficient rear garden gound, alien site density in relation to the surrounding area, inappropriate siting in relation to an established building line, and likely precedent set for future 'backland' development, is considered to be contrary to Policy 8: 'Design and Policy Guidance' of the Aberdeen Local Plan, and the relevant supplementary planning guidance contained in the 'Sub-division and Redevelopment of Residential Curtilages' Guidance Note.*
- 4. that the proposed development, by way of its inappropriate siting, density, relationship with the established built form and potential precedent for similar development, would result in a detrimental impact on the existing character and amenity of this area, and it therefore contrary to Policy 40: 'Residential Areas' of the Aberdeen Local Plan.*

A subsequent appeal to the Scottish Government's Directorate for Planning and Environmental Appeals, ref. PPA-100-429, was dismissed in May 2009, with the appointed reporter concluding that the proposed house would not accord with policies 1, 6, 8 and 40 of the Aberdeen Local Plan (now superseded by the Aberdeen Local Development Plan of 2012) and that there would be a significant adverse impact on the character and amenity of the area. No other material considerations were identified which would warrant a departure from the provisions of the development plan.

## **PROPOSAL**

This application seeks detailed planning permission for the sub-division of the existing residential curtilage at 97 Burns Road, and the construction of a new 1 ½ storey, 3-bedroom dwellinghouse on the narrow northern section of the site, fronting onto Cromwell Gardens. The land obtained from the sub-division of the plot at number 97 would be used to provide private rear garden grounds for the new house.

The submitted plans show a 1½ storey dwellinghouse, finished with a pitched roof and 2no hipped dormers to the front elevation. To the rear, the house would feature a modest single-storey rear offshoot, projecting along the eastern boundary and featuring a hipped slate roof.

Walls would be constructed predominantly in blockwork finished with grey drydash render, however on the front elevation grey synthetic granite would be used for door and window surrounds. Windows would be of white uPVC, with the drawings showing a sash-and-case 'lookalike' style.

## **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?121571>

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

## **REASON FOR REFERRAL TO SUB-COMMITTEE**

The application has been referred to the Sub-committee because 17 timeous representations have been received in relation to the proposed development. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

## **CONSULTATIONS**

**Roads Project Team** – No objection to the proposal, provided the driveway is constructed in accordance with specified criteria, and that adequate visibility splays are maintained.

**Environmental Health** – No observations.

**Enterprise, Planning & Infrastructure (Flooding)** – No observations

**Community Council** – No response received

## **REPRESENTATIONS**

A total of 19 letters of representation have been received, though it is noted that two of these were received outside the relevant period allowed for the submission of representation, and so will not be taken into account in determining the application. The objections timeously raised relate to the following matters –

1. Loss of light
2. Overbearing appearance of the new dwelling when seen from adjacent private gardens
3. Increase in traffic, exacerbating existing parking problems
4. Disruption caused during construction, arising from fumes, access problems, parking of construction vehicles
5. Site is too small to accommodate a 3-bed house
6. New house would be fundamentally different in proportions and scale when seen beside modest bungalows on Cromwell Gardens
7. Proposal represents over-development through relationship with its boundaries and loss of garden grounds at 97 Burns Road
8. Loss of sunlight to adjacent properties
9. Loss of daylight
10. Poor relationship between the house and its associated garden grounds, which are largely separate and obscured from view from the new house
11. Potential hazard caused by new access arrangements – inadequate visibility
12. Applicant perceived to have solely financial motives for making the application
13. Some of the details shown on drawings are outdated/inaccurate
14. Concerns over the ownership of land within the application site

## **PLANNING POLICY**

### **Aberdeen Local Development Plan**

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

New developments will need to demonstrate that sufficient measures have been taken to minimise the traffic generated. Maximum car parking standards are set out in Supplementary Guidance on Transport and Accessibility and details the standards that different types of development should provide.

#### Policy D1: Architecture and Placemaking

To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as scale, massing, colour, materials, details, the proportions of building elements and landscaping will be considered in assessing this.

#### Policy D2: Design and Amenity

In order to ensure that development provides appropriate levels of amenity for residents, development should be designed with regard to a stated set of principles, relating to matters such as privacy, provision of a public face to the street, access to sitting out areas, and 'designing out' crime.

### Policy H1: Residential Areas

Within existing residential areas, proposals for new residential development will be acceptable in principle if the proposal (1) does not constitute over-development; (2) does not have an unacceptable impact on the character or amenity of the surrounding area; (3) does not result in the loss of open space as defined in the Aberdeen Open Space Audit 2010; and (4) complies with Supplementary Guidance relating to curtilage splits (entitled 'The Sub-division and Redevelopment of Residential Curtilages')

### Policy H3: Density

The City Council will seek an appropriate density of development on all housing allocations and windfall sites.

### Policy R7: Low and Zero Carbon Buildings

All new buildings must install low and zero carbon generating technologies to reduce the predicted carbon dioxide emissions by at least 15% below the level set by 2007 building standards. This percentage increases as specified in the relevant 'Low and Zero Carbon Buildings' Supplementary Guidance, and presently stands at 30%.

## **Supplementary Guidance**

The Council's supplementary planning guidance on both 'The Sub-division and Re-development of Residential Curtilages' and 'Low and Zero Carbon Buildings' are relevant to assessment of this proposal.

## **EVALUATION**

Tesco Stores Ltd has submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco has been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council has received robust advice from Counsel that the reasoning of the Inner House is sound and there are strong grounds to resist the appeal.

Planning applications continue to be determined in line with the Aberdeen Local Development Plan but the appeal is a material consideration and the Council has to take into account the basis for the legal challenge when determining applications. It should also be pointed out that the Court indicated that, even if Tesco's arguments had found favour, it would have been inclined to quash the plan only in so far as it related to Issue 64 (Allocated Sites: Woodend...Summerhill... etc.) and that it would be disproportionate to quash the whole plan.

This evaluation has had regard to and taken into account the legal challenge. None of the policies or material considerations which apply to this application would be affected by the terms of Tesco's challenge. The recommendation would be the same if the application were to be considered in terms of the 2008 Aberdeen Local Plan.

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 Residential Use**

The principle of establishing residential use on this site will be determined by its relationship with the criteria specified in policy H1 (Residential Areas) of the Aberdeen Local Development Plan, and by the quality of the environment created by the proposed accommodation.

Policy H1 sets out that the principle of residential development within established residential areas will be accepted provided the development is of an appropriate scale and form, does not constitute over-development and would not result in an unacceptable impact on the existing character and amenity of an area. It further states that, where appropriate, development will be required to demonstrate its compliance with the relevant supplementary guidance relating to the sub-division and redevelopment of residential curtilages.

### **Over-development**

The total area of the application site is approximately 465sqm. Nearby sites on Cromwell Gardens are generally in the order of 200-240sqm, while the nearest site on Burns Road measures circa 300sqm. In this regard, the application site compares favourably to those in the surrounding area. The footprint of the proposed dwelling is approximately 95sqm, which compares to roughly 50sqm for those immediately adjacent on Cromwell Gardens and 80sqm to those nearest on Burns Road. Again, the footprint of the proposed house is generally of a comparable size to those present in the surrounding area, and therefore it is concluded that the proposal does not result in the over-development of this site for the purposes of assessment against policy H1 (Residential Areas) of the Aberdeen Local Development Plan. It follows that the density proposed is considered to be generally appropriate to this context, as required by policy H3 (Density) of the Aberdeen Local Development Plan. Nevertheless, the arrangement of the site differs from those noted above, in that those are of a regular shape and the respective dwellings are appropriately sited within their sites.

### **Impact on Character and Amenity of Area**

As a result of the narrowing of the site at its central point, the rear of the house would potentially feel quite closely confined by its boundaries, and it is likely that at least 2 of the windows to the rear of the house would be extremely close to, and directly facing, boundary enclosures. The proposed dwelling has been designed and internal space arranged in such a way as to avoid any direct overlooking of adjacent properties. At upper floor level, dormers are to the front of the property only, with glazing confined to rooflights at upper floor level on the rear elevation. At ground floor level, the site would be adequately enclosed to avoid any loss of privacy for residents of adjacent dwellings.

While there is not considered to be any direct impact on the amenity enjoyed by neighbouring residents through loss of privacy, it is noted that the building would be of considerable height and massing when seen from the immediately adjacent gardens at 99, 101 and 103 Burns Road. This visual impact would arguably result in a detriment to the amenity of those neighbouring residents, however it is not considered that this arrangement would be incongruous in an urban setting, and the degree of impact on amenity within adjacent garden grounds would not be excessive.

### **Compliance with Curtilage Split Guidance**

The Council's supplementary guidance relating to the sub-division and redevelopment of residential curtilages states that any windows to habitable rooms should not look out directly over, or down into, areas used as private amenity space by residents of adjoining dwellings. The use of rooflights at upper floor level to the rear of the new house should ensure that there is not significant degree of overlooking, though this is based on an understanding that rooflights would be at an appropriate height within the roofspace to preclude passive overlooking.

It is stated that rear gardens of new dwellings of up to 2 storeys should achieve a minimum average length of 9m. Such garden grounds should be conveniently located immediately adjoining residential properties, be in a single block of a size and layout to be useable for sitting out, and have an acceptable level of privacy and amenity. It is considered that the proposed development demonstrates sufficient average length to meet the requirements of the supplementary guidance, but that its irregular arrangement may not be considered to represent a single block of space, but rather two distinct areas formed by the tightly confined patio area immediately adjoining the rear of the house and the wider garden ground which opens up beyond. It is noted further that the proposal involves a substantial reduction in the private garden grounds available to number 97 Burns Road.

The relevant supplementary guidance continues, noting the important relationship between existing buildings and the surrounding spaces, and the potential impact of introducing new development which does not respect this relationship. In this respect, it is concluded that the irregular shape and arrangement of the application site is such that the proposed new dwelling, while acceptable in terms of its massing, scale and materials, would nevertheless appear squeezed into a site which does not readily lend itself to use as a residential curtilage. It is therefore concluded that, while the design of the dwelling has merit in itself, and the internal layout has been arranged in order to avoid any adverse impact on privacy of adjacent residents, the site is nevertheless not suited to the provision of a new residential curtilage, and that to allow this development would fail to respect the relationship formed by the arrangement of buildings and the spaces surrounding them. As such, it is concluded that the proposal would result in an adverse impact on the character of the area, contrary to policy H1 (Residential Areas) and the Council's published supplementary guidance on the 'Sub-division and Redevelopment of Residential Curtilages'.

## **Design, Scale and Form of Development**

Design quality will be assessed in terms of both Policy D1 (Architecture and Placemaking) and Policy D2 (Design and Amenity) of the Aberdeen Local Development Plan. Policy H3 (Density) is also of relevance. Policy D1 states that all new development should be designed with due regard for its context and make a positive contribution to its setting. In assessing this, matters including scale, massing, colour, materials, details and the proportions of building elements will be taken into account.

There is a reasonable variety of architectural styles in the area immediately surrounding the application site. Cromwell Gardens is fronted by houses only on its southern side, with the northern side bounded by the rear gardens of 2 ½ storey granite properties facing north onto Cromwell Road and their associated domestic garages. The houses on the southern side of Cromwell Gardens are generally more modest semi-detached single-storey dwellings, finished in wetdash render in a variety of colours. Properties on the nearest stretch of Burns Road are 1 ½ storey semi-detached houses of a traditional granite construction, featuring slate roofs.

The proposed new dwelling is of relatively modest proportions, and its finishing is broadly consistent with those present on Cromwell Gardens. Its roof is somewhat more steeply pitched than its neighbours in order to provide the desired accommodation at first-floor level, however the visual impact of this increased height is perhaps less than might otherwise be the case by virtue of its location at a transitional point in the street scene, demarcating the end of Cromwell Gardens and prior to the change in architectural style on Burns Road. In general terms, it is not considered that the scale, proportions and finishing of the proposed dwelling are incompatible with this location, and its frontage onto Cromwell Gardens would not be incongruous in relation to its context.

Nevertheless, the arrangement of the site is a result of its irregular shape and the 'pinch-point' identified between its Cromwell Gardens frontage and the area of garden ground to the rear of 97 Burns Road. As a result, there is a case that the house and its associated garden ground are more disconnected than might be expected, with the majority of the rear garden not visible from the house.

It is noted that the proposal does not involve the loss of any areas of valuable or valued open space as defined in the Aberdeen Open Space Audit 2010.

Taking these matters into account, it is concluded that, while the design of the house itself is sufficiently consistent with its surroundings, the arrangement of the site demonstrates a failure to have due regard for the context of the site by seeking to introduce a new residential curtilage in a manner which would be inconsistent with the general pattern of development and arrangement of buildings and spaces. It is therefore considered that the proposal as a whole would not accord with policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan.



### **Amenity Afforded to Occupants of Proposed Development**

It is considered that residents of the proposed new dwelling would be afforded adequate privacy within their property, 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 Aberdeen Local Development Plan.

### **Traffic Impacts, Access Arrangements and Car Parking**

The proposed development provides a single off-street car parking space to the front of the new dwelling. The Council's Roads Projects team have accepted this level of provision, and stated no objection to the proposal, provided it is appropriately constructed. This demonstrates accordance with policy T2 (Managing the Transport Impact of Development).

### **Relevant Planning Matters Raised in Written Representations**

The matters raised in representations have been summarised previously in this report. The majority of these issues are addressed elsewhere in this report. Responses can be summarised as follows;

- Issues 1, 8 and 9 - Loss of direct sunlight to adjacent gardens would be limited to certain areas of those gardens, at certain times of day, and it not considered to be excessive to the point of fundamentally affecting existing residential amenity. Any loss of background daylight would be similarly limited by the distance to adjacent homes and its localised nature.
- It is acknowledged that the new dwelling would be higher than its neighbours on Cromwell Gardens, however the impact of this height difference is mitigated significantly by its presence at the end of an architecturally consistent row. The site of the house is at a transitional point in the street, and there exists a degree of scope to differ from those adjacent, in a manner which might not be possible at a point within such a row of houses.
- Issues 3 and 11 relate to issues of car parking and access, which have been addressed in the response received from the Roads Projects team, and are addresses in the 'Traffic Impacts, Access Arrangements and Car Parking' section of this report.
- Issue 4, relating to the disruption caused during construction, is acknowledged, but there is a degree of disturbance caused during any construction project, and this should not preclude development of a site in isolation.
- Issue 5, relating to the inability of the site to adequately accommodate a 3-bed house, and issue 2, relating to the overbearing appearance of the house when seen from adjacent gardens and the resultant impact on existing amenity, are acknowledged, and it is considered that these matters are of significant weight in assessing this application.
- Similarly, issue 7, detailing the perceived over-development of the site by virtue of its relationship with its boundaries and the loss of garden grounds at 97 Burns Road which has been necessary to form a residential plot, are relevant to the planning authority's assessment of this proposal, and the loss of garden grounds to number 97 should only be countenanced if both

the new property and the 'donor' property would retain appropriate private amenity space in a manner which is consistent with the general pattern of development in the surrounding area. As noted previously in the 'Over-development' section of this report, it is concluded that the house proposed would be set within a site of an appropriate size. It is noted that 97 Burns Road currently enjoys one of the most generous plots in the area, and is therefore more able than most to contribute part of its site towards a new development while still retaining sufficient garden grounds for its own residents. While the depth of the existing garden at 97 would be significantly reduced, its overall area would remain consistent with its neighbours.

- Issue 10, relating to the relationship between the new house and its associated garden ground, is of direct relevance, given that the Council's Supplementary Guidance on the splitting of residential curtilages requires that such private gardens are conveniently located in a single block directly adjoining the rear of a new dwelling.
- Issue 12 and 14, relating to the applicant's motives for making the application and the ownership of land shown within the application site, are not relevant to the planning merits of the proposed development, and cannot be taken into account in the planning authority's evaluation.
- Issue 13, relating to the accuracy of the drawings submitted, is acknowledged, however any inaccuracies appear to be inconsequential, relating to the surroundings of the site rather than the proposed development itself. The case officer's site visit would be the principal means of assessing the site context.

### **'Low and Zero Carbon Buildings' Supplementary Guidance**

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.

### **Conclusion**

It is concluded that, while the design and appearance of the proposed dwelling itself is broadly consistent with its surroundings, and would not result in an incongruous appearance in the streetscape, the irregular arrangement of space and unconventional provision for private amenity space would be such that they would fail to demonstrate their compatibility with the pattern of development in this area, and the proposal would therefore be contrary with policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan, the Council's relevant supplementary guidance in relation to the 'Sub-division and Redevelopment of Residential Curtilages' and policy H1 of the Aberdeen Local Development Plan, relating to zoned residential areas.

Should members resolve to approve this application, appropriate conditions should be attached to any consent in relation to the following matters: (1) details of appropriate boundary enclosures; (2) requiring submission of samples of materials to be used in finishes to roof and walls; (3) requirement that the car

parking arrangements on the drawings are laid out prior to occupation, and retained thereafter; (4) surface water drainage details; (5) scheme of landscaping; (6) requiring implementation of landscaping scheme within defined period and planting to replace any specimens that die; (7) restriction of permitted development rights in order to require that any subsequent extension of the property is the subject of a formal application for planning permission; (8) hours of construction work; (9) details of compliance with Low and Zero Carbon Buildings supplementary guidance.

## **RECOMMENDATION**

### **Refuse**

## **REASONS FOR RECOMMENDATION**

1. that the proposed development, by way of the irregular shape of the site and resultant arrangement of amenity space relative to the dwelling, would appear unduly contrived and tightly fit relative to the general pattern of development in the area, contrary to the Council's relevant supplementary guidance 'The Sub-division and Redevelopment of Residential Curtilages'.
2. that the proposed development, by failing to demonstrate its accordance with the Council's relevant curtilage splitting supplementary guidance, is contrary to policy H1 (Residential Areas) of the Aberdeen Local Development Plan.
3. that the proposed development, by failing to demonstrate due regard for its context and make a positive contribution to its setting, is contrary to policy 1 (Architecture and Placemaking) of the Aberdeen Local Development Plan.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.