

OLDMILL ROAD, BON ACCORD CRESCENT

PROPOSAL FOR A MIXED USE BUILDING  
CONSISTING OF SERVICED RESIDENTIAL  
APARTMENTS AND A BUSINESS UNIT

For: Bon Accord Serviced Apartments

Application Type : Detailed Planning Permission

Application Ref. : P121633

Application Date: 12/12/2012

Officer: Sally Wood

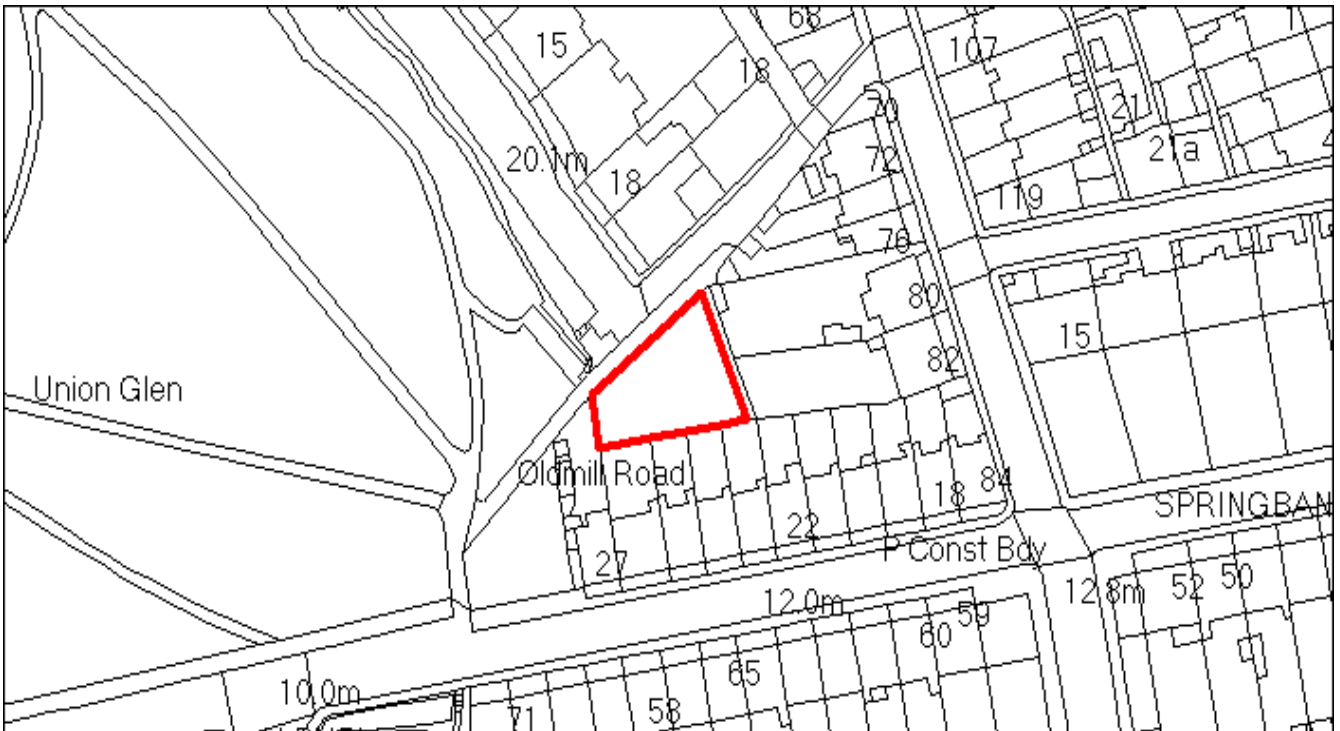
Ward : Torry/Ferryhill (Y Allan/A Donnelly/J  
Kiddie/G Dickson)

Advert : Section 60/65 - Dev aff  
LB/CA

Advertised on: 09/01/2013

Committee Date: 21/03/2013

Community Council : Comments



**RECOMMENDATION: Refuse**

## **DESCRIPTION**

The application site is located to the southern end of Bon Accord Crescent, adjacent to Old Mill Road. Bon Accord Crescent is a mix of offices, residential and guesthouse/B&B establishments. To the west of the site is Bon Accord Terrace Gardens, whilst to the south of the site are dwellings along Springbank Terrace, that back on to the site.

The site lies within the Bon Accord Crescent/Crown Street Conservation Area. Bon Accord Crescent comprises a terrace of properties that are Category B listed. The dwellings to the east, 70-82 Bon Accord Street, are C Category listed buildings, which have rear elevations orientated towards the application site.

It is understood that the application site was previously a slaters yard, though its use has long since been abandoned. The site is classed as brownfield, and steeply slopes from the north-east corner towards the west and south. The site sits some 2 metres lower, approximately, than Bon Accord Crescent, though the levels vary throughout the site. Walls are present along the boundaries, at a height between 1 and 2 metres in height, consisting largely of granite rubble.

Immediately to the north of the site is Oldmill Road which is a footpath, and forms a link between a number of core paths within the city.

## **RELEVANT HISTORY**

93/2455 Erection of residential development. Withdrawn by applicant, 06.10.1994.

94/2210 Erection of a residential development in the form of a tower of five storeys. Refused by Committee, contrary to officer recommendation, 27.01.1995

The application was for the formation of eight flats, in a modern designed building, with grey render, natural granite and a lead roof. The building was five storeys in height, with each storey stepped in. No car parking was included as part of the proposal.

The application was refused on the grounds that it would pose a serious hazard to road safety by virtue of lack of car parking; be entirely out of character with the architectural design, integrity and uniformity of Bon Accord Crescent; be incompatible with the existing streetscene and highly deleterious to a particularly fine piece of the City's townscape by acting as an obtrusive and unattractive stop to the terrace; be detrimental to the amenity of neighbouring dwellings especially in Springbank Terrace; and represent an overdevelopment of the site.

A2/0173 Proposed residential development. Refused by Committee, in accordance with officer recommendation, 17.03.2003.

The application was for a four storey high building accommodating eight two-bedroom flats in outline only. Indicative plans showed that from the Springbank Terrace elevation, the building was five storeys in height due to underbuild.

The application was refused on the following grounds: the scale and layout of the development would adversely affect the daylighting, amenity and privacy of adjoining residents and the character of the existing residential area; the scale, height and position of the proposed building would have a significant detrimental impact on the setting of adjoining listed buildings and the character of the wider conservation area; and if approved the proposal would set an undesirable precedent for future applications of a similar nature.

## **PROPOSAL**

The current proposal is for a building over 6 floors which would include 13 serviced apartments on levels 1-6, a business unit 65 square metres which would be for office use (Class 4), and associated services including cycle and luggage storage, store and reception area.

The building would be located to the northern corner of the site. Along the north-west boundary the existing granite rubble wall would be replaced in the main with the wall of the new building and a structural planter. To the south and east of the site between the building and the boundary of the site would be grass terraces and structural planters. The structural planters would be planted with a planting scheme, including trees at a height of 3.5-4.5 metres and shrubs.

The building in its own right would be taller than any of the adjacent buildings within the locality, but given the changes in levels, it will be no taller than the eaves level of the properties on Bon Accord Crescent.

The properties along Bon Accord Crescent are approximately 11.5 metres in height to the ridge. The proposed building is flat roofed. The ridge height of the building varies because of the change in ground levels. The east elevation (view from 70-82 Bon Accord Crescent) of the building varies in height above ground level between 11.3 -12.9 metres, west elevation (view from Bon Accord Crescent Gardens) varies in height above ground level between 16.5 -17.3 metres, north elevation (view from Old Mill Road) varies in height above ground level between 11.9 -15.6 metres, and the south elevation (Springbank Terrace) varies in height above ground level between 15.4 -17.6 metres. These heights do not include the lift shaft, which is set back on the roof, and would project 0.25 metres above the roof. Due to the set back it is unlikely that the lift shaft would be discernible.

The proposed building is not a conventional shape, having six sides, similar to an irregular elongated hexagonal type shape footprint. The building would be granite on lower levels with five floors above being of glass. The glass would be held together in aluminium frames. Within the building, located close to the glass, would be upstands in cross laminated timber (clt). Some of the windows will open, by way of a typical casement window or a sliding window. Sliding windows will have an internal Juliette glass balcony for the safety of occupants. Further behind this will be blinds which will be the same throughout the block with a light grey backing to provide consistency when viewed externally.

The width of the building is varied, and no full elevation would be presented at a true 90 degrees, this is because the footprint is not a conventional shape such as square or rectangular.

The north elevation is shown at a total of 18.7 metres wide, the glass element above ground floor level is 16.3 metres wide. The south elevation is shown at a total width of 24.6 metres, with the first floor a width of 17.3 metres, and upper floors 16.1 metres overall width. The overall width of the east elevation as shown on the submitted plans is 12.3 metres, whilst on the west it is 15.7 metres at lower levels, with the glass element shown as 10.5-10.8 metres in width.

Services will be included within the building, including lift shaft and gutters, for example. Where such services exist a slim anodised aluminium panel will be used, there is one in each elevation. In addition, to screen the lift, the use of a glass material with internal mesh, described by the applicant as diaphanous aluminium/stainless steel/fabric blind, would be utilised.

The building would have no car parking or vehicular access. Waste would be stored on site in a purpose built storage area, which would be covered. The waste would be taken to Springbank Terrace on collection days.

Four cycle spaces would be provided within the development, with additional cycle stands located inside the building.

### **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?121633>

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

- Access Statement
- Travel Plan
- Transport Statement
- Design Statement
- Sustainability Statement
- Rainwater Attenuation Calculations
- Plans include detailed landscaping plan.

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

The application has been referred to the Sub-committee because there are more than five letters of representation received, and an objection from the Community Council. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

### **CONSULTATIONS**

**Roads Project Team** – no objections subject to conditions

**Environmental Health** – no comments received

**Developer Contributions Team** – seek contributions to core path network

**Enterprise, Planning & Infrastructure (Flooding)** - no objections, request surface water drainage proposals.

**Community Council** – object on the grounds of scale and layout, impact on residential amenity, and on the setting of the adjacent listed buildings and conservation area. Concerned that approval would set an undesirable precedent.

## **REPRESENTATIONS**

26 letters of representation, objecting to the proposal have been received, including a letter from the Aberdeen Civic Society. The objections raised relate to the following matters –

### Design

1. Detrimental impact on the adjacent B-category listed buildings
2. Negative impact on the Conservation Area; it neither enhances or preserves the Conservation Area
3. Inappropriate scale and design, which is out of keeping
4. Height (including height above Springbank Terrace dwellings; from Bon Accord Terrace Gardens; within the area generally)
5. Over-development

### Residential Amenity

6. Loss of light (day and sunlight); the building will overshadow
7. The tree screen will block out light
8. No space within the site to allow tree screen
9. Loss of privacy (to houses and gardens)
10. Block views
11. Damage to properties
12. Increase in noise levels
13. Commercial development within a residential area
14. The proposed tree screen will take an age to establish as a screen
15. Adverse impact on residential amenity

### Policy

16. Loss of green space (contrary to NE1 and NE3)
17. Site not zoned for development
18. Contrary to Supplementary Guidance: sub-division and redevelopment of residential curtilages, as development is only 19 metres away from the nearest house
19. Conflict with City Centre Development Framework – impact on Simpson Architecture
20. Approval would create undesirable precedent.

### Roads and Parking

21. Limited vehicular access to the site
22. No appropriate road access to the site
23. Where will occupants of the building park
24. Stopping of vehicles on the corner of Bon Accord Crescent would prejudice public safety

- 25. Experience loss of car parking now, the proposal will reduce number of available spaces
- 26. Will parking become residents only parking to alleviate pressure
- 27. Vehicles entering and exiting the site will cause a hazard to road users
- 28. Lack of sufficient within curtilage parking
- 29. Increase in traffic, which will also increase accidents
- 30. Access of construction traffic to the site, which will also hinder emergency service access and limit parking spaces
- 31. Existing road is narrow

#### Drainage and Infrastructure

- 32. Damage to sewers
- 33. Currently experience subsidence- the development would exacerbate this
- 34. Lack of capacity within sewers- have already been flooded with waste water
- 35. Increase risk of surface water flood risk
- 36. Drainage impact during construction
- 37. No drainage plans submitted

#### Other

- 38. Introduce more people into the area
- 39. Increase in crime
- 40. Title deed allows right of access over the site; lack of access would be a fire hazard
- 41. Affect private right of way during construction
- 42. Risk of safety to the nearby school
- 43. Affect B&B businesses (parking, business amenity)
- 44. Already too many B&B type businesses
- 45. No need for such additional businesses. There are existing empty units which could be used
- 46. Previous applications refused
- 47. The timing of the application
- 48. Inaccurately labelled plans (Springbank Terrace labelled as Willow Road; Oldmill Road labelled as Oldmill Lane)
- 49. Size of apartments unknown
- 50. Proposed building not show in context with existing buildings
- 51. Damage and undermining existing boundary walls

## **PLANNING POLICY**

### **National Policy and Guidance**

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 require planning authorities, when determining applications, which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

## Scottish Planning Policy

Scottish Planning Policy (SPP) states that there is a presumption against works that will adversely affect a listed building or its setting (paragraph 113). It continues to explain that the layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. There is a presumption against works that will adversely affect a listed building (paragraph 115).

The Policy recognises that design is an important consideration to ensure that high quality developments are achieved and high quality city centres.

SPP states that town centres should be the focus for a mix of uses, and that planning authorities should support a diverse range of community and commercial activities in town centres (paragraph 52). Furthermore, SPP states that to be identified as a town centre a diverse mix of uses and attributes should be provided (paragraph 54).

The policy outlines what it considers as key elements of successful town centres, noting that a mix of uses should be supported, rather than taking a retail-led approach which can create homogenous centres (paragraph 54).

Vitality is a measure of how lively and busy a town centre is, whilst viability is a measure of the capacity to attract ongoing investment for maintenance, improvement and adaptation to changing needs (paragraph 59). The SPP notes that viability and vitality are all material considerations in achieving healthy town centres.

Paragraph 45 promotes taking into account economic benefits of proposed development, whilst paragraph 48 seeks to ensure that new development safeguards and enhances environmental quality; and promotes the use of brownfield sites.

## Scottish Historic Environment Policy

In paragraph 3.40, there is a presumption against work that adversely affects the special interest of a listed building or its setting.

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

Provides a spatial strategy for development, to ensure the right development in the right place to achieve sustainable economic growth which is of high quality and protects valued resources and assets, including built and natural environment, which is easily accessible. Creation of a strong service sector.

### **Aberdeen Local Development Plan**

Policy C1 City Centre Development - Regional Centre – development within the centre must contribute to the vision of the Centre as a major regional centre. The

Centre is therefore the preferred location for retail, commercial, and leisure developments, which should be located in accordance with the sequential approach.

Policy T2 Managing the Transport Impact of Development – new development will need to demonstrate that sufficient measures have been taken to minimise the traffic generated.

Transport Assessments and Travel Plans will be required for developments that exceed the thresholds expressed in supplementary guidance, which will be secured by condition or legal agreement.

Policy D1 Architecture and Placemaking – ensures that high standards of design are achieved through a number of considerations, including context, to ensure that the setting of the proposed development and its design is acceptable.

Policy D2 Design and Amenity – outlines a number of considerations which shall be taken into account when assessing a planning application in the interests of amenity considerations, mainly relating to residential.

Policy D3 Sustainable Active Travel – new development shall be designed to minimise private car travel. Promote healthy modes of travel. Ensure permeability and connection to existing development and environment.

Policy D4 Aberdeen's Granite Heritage – the Council will seek to retain granite buildings and boundary walls throughout the City, even outwith Conservation Areas.

Policy D5 Built Heritage – proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

Policy D6 Landscape – development is not acceptable unless it avoids, (i) significant adverse impact on landscape character and elements that contribute to 'sense of place'; (ii) obstruction of important views of the City's townscape, landmarks and features when seen from important public vantage points; (iii) the disturbance loss or damage to important recreational resources; (iv) sprawling onto important or necessary green spaces.

Policy H1 Residential Areas – within existing residential areas proposals for new residential development will only be permitted if it does not constitute over development; does not have an unacceptable impact on the amenity or character of the surrounding area; does not result in the loss of open space as identified in the 2010 Audit; complies with Supplementary Guidance on Curtilage Splits and House Extensions. For proposed non-residential development it will be refused in a residential area unless it is considered complementary to residential use or it can be demonstrated that the use would not conflict with residential amenity.

Policy NE1 Green Space Network – the Council will protect, promote and enhance the wildlife, recreational, landscape and access value of the Green Space Network. Proposals for development that are likely to destroy or erode the character or function of the Green Space Network will not be permitted.



Policy NE5 Trees and Woodlands – appropriate measures should be taken for the protection and long terms management of existing trees and new planting both during and after construction. Buildings and services should be sited so as to minimise adverse impacts on existing and future trees and tree cover.

Policy NE9 Access and Informal Recreation – new development should not compromise the integrity of existing or potential recreational opportunities including access rights, core paths, other paths and rights of way.

Policy R6 Waste management Requirement for New Developments – developments should make sufficient provision for the disposal of waste including storage for recyclables.

Policy R7 Low and Zero Carbon Buildings – all new buildings must install low and zero-carbon generating technology to reduce the predicated carbon dioxide emissions by at least 15% below 2007 building standards.

The Local Development Plan identifies the area as – being located within the city centre boundary; as a residential area and Green Space Network.

### **Supplementary Guidance**

- Harmony of Uses – residential and other developments within the city (compatibility of residential and non-residential use mix)
- Landscape Guidelines
- Low and Zero Carbon Buildings
- Transport and Accessibility
- Waste Management

### **Other Relevant Material Considerations**

#### Aberdeen City Centre Development Framework

The Framework notes that Bon Accord Crescent Gardens provides the setting for the Crescent, with a change in levels offering extensive views to the south-west. Recommends increasing accessibility within the gardens, including a lighting scheme to increase safety of the park at night.

Aims to celebrate architecture of Archibald Simpson; enhance green space in Bon Accord Square; promote public art for squares and gardens; appropriate lighting; and potential to create a connection to Union Street.

Notes that existing granite heritage should be conserved; the use of granite in new development should be encouraged; and where it is not possible to use granite in new build, materials that complement the granite should be used. Use of appropriate lighting to enhance areas and make them more friendlier and safe.

## EVALUATION

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

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 require planning authorities, when determining applications which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses

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.

### Statement regards to the Adopted Local Development Plan (2012)

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.

### Principle of the development.

The Local Development Plan identifies the site as being within the confines of the city centre; located within a residential area; and on land designated as green space network.

The site is within a residential area. The proposal is for thirteen serviced apartments and an office. The apartments are not residential in their traditional sense as they are occupied on a short term let basis, with a regular over turn in patronage. Many hotels, B&B establishments and guesthouses are located within residential areas, and can co-exist amicably. There are other considerations to take into account such as the detailed design, but in principle such a use can exist without having an adverse impact on residential amenity. The office use, Class 4, is such that it can also exist within a residential area. Many offices also exist within established residential areas. If there are residential amenity considerations in terms of disturbance arising from hours of operation, then consideration can be given to controlling the hours by condition. The Scottish Government and local plan policies seek to mix uses which are compatible. Class 4 office uses tend not to cause disruption, and have limited public access. Many such offices already exist within Bon Accord Crescent.

Finally in terms of the Green Space Network (GSN), the site has been identified as GSN, along with a private garden on Springbank Terrace, number 27, and Bon Accord Terrace Gardens. Clarification has been sought in terms of the inclusion of the private garden and this site. It is understood that this is a graphical error due to a desk based assessment. In the absence of a site visit it was considered that the site was open to and formed part of the wider Bon Accord Terrace Gardens. The characteristics of the site are such that it is brownfield land, in private ownership, contained within boundary walls and has no direct public access. On that basis it is considered that the development of this site would not be contrary to the overarching aims of the Greenspace Network Policy NE1 of the Local Development Plan. The development of this site would not adversely affect the Green Space Network.

In principle subject to considerations of design and amenity, and in accordance with Planning Policies C1 and NE1 of the Local Development Plan it is considered that the development of the site for serviced apartments and an office is acceptable. In accordance with Planning Policy H1 not all aspects of the policy have been considered, but it is judged that such a use has the potential to be complementary to the existing residential use and would not necessarily conflict with residential amenity subject to detailed design considerations.

### Design

A design statement and a sustainability statement have been submitted to accompany the planning application.

The proposal prior to submission as a planning application was also presented to the Aberdeen City and Shire Design Review Panel.

The design statement considers that Bon Accord Crescent has influenced the current proposal, such principles as the parapet of the Crescent influencing the height of the proposal; the use of a single material; the horizontal banding of the Crescent incorporated as a principle within the design; the curve of the Crescent led to the proposed building being non reliant on right angles, whilst not trying to be a true copy. The original gardens to the Crescent were a series of terraces (Bon Accord Terrace Gardens), and thus the proposal incorporates terraces.

The design statement comments that the proposal in relation to the previous planning application 94/2210 is different because it is 13% lower in height at ground floor, and 16% smaller in floor area; and that in relation to planning application A2/0173 the proposal is 17% lower in height and 29% smaller in floor area (presumed to be footprint of the building).

The statement notes that there would be no overshadowing to the residential properties as the proposal is on the northern side. It considers due to form, position, and materials that the proposal will not adversely affect daylight standards. In relation to flooding and drainage the proposal will manage surface water drainage and be an improvement on the existing. In relation to privacy, the statement comments that the properties are overlooked currently from neighbouring roads, the site, the park, and from each others gardens. The agent considers that due to the position of the building, its form and use of materials, and the inclusion of a cill within the building, all ensure that privacy is maximised. Additionally the inclusion of a planting belt further enhances privacy, acts as a buffer for noise, and provides an attractive backdrop for residents along Springbank Terrace.

The design statement considers that a contemporary solution is the most appropriate as a reliance on right angles would mean an alien form of development. The use of glass and overall height of the building is such that the design statement considers that it is subservient.

The building has been designed as a tower with a solid plinth, and includes a pediment which provides a sense of entry and natural supervision of the site and the lane. The building has been designed so that it has no definitive front or back elevation.

The minutes from the Aberdeen City and Shire Design Review Panel note that the site is challenging, but a good understanding of context had been given. Generally the panel were supportive. Nevertheless, the Panel required to understand how resident's privacy would be addressed; how the building would look at night; how overlooking concerns of Springbank Terrace would be addressed; and highlighted the importance of landscaping. The form of the building was considered acceptable, deemed of an appropriate scale and mass. A suggestion of balconies to act as a screen to reduce impact of privacy was suggested.

The Aberdeen Civic Society considers that the development would be detrimental to the Bon Accord Crescent, B category listed buildings and the conservation area.

A number of letters of representation have objected to the proposal and its impact on the listed buildings and the Conservation Area. Many noted that the design was out of keeping, of an inappropriate scale and mass, and inappropriate materials.

There is a requirement to ensure that development within a Conservation Area either preserves or enhances the character of the area. The City Centre Development Framework notes that existing granite heritage should be conserved; that the use of granite in new development should be encouraged; and where it is not possible to use granite in new build, materials that complement the granite should be used.

Policy D1 of the Local Development Plan (Architecture and Placemaking) seeks to ensure high standards of design are achieved having regard to context, to ensure that the setting of the proposed development and its design is acceptable. Whilst Policy D4 (Aberdeen's Granite Heritage) seeks to retain granite buildings and boundary walls throughout the City.

There is one school of thought that the proposal should be entirely in granite so that it complements the vast number of granite buildings within the locality. Policies are supportive of alternative materials if there are reasonable grounds to do so. This site lies within the Bon Accord Crescent/Crown Street Conservation Area, the 1997 Planning (Listed Buildings and Conservation Areas) (Scotland) Act places a duty on Planning Authorities to ensure development enhances or preserves the character of Conservation Areas. Furthermore there are a number of listed buildings adjacent, and in considering applications there is a requirement to ensure that the setting of a listed building is preserved.

Scottish Planning Policy (SPP) states that there is a presumption against works that will adversely affect the setting of a listed building, and the Scottish Historic Environment Policy also states that there is a presumption against work that adversely affects the special interest of a listed building or its setting.

The previous planning application 94/2210 included the use of synthetic granite, light grey cement render and lead roof. Whilst planning application A2/0173 included granite and lead roof. In both applications the palette of materials did not form part of the reasons for refusal. The current proposal of glass is not entirely consistent with the granite blocks of the buildings within the immediate environs. However, glass is considered an appropriate material. It is considered that to attempt to make a building of this scale wholly of granite would be pastiche, and would never quite fit in, appearing alien, as it would compete with the adjacent grandeur of the Crescent. On that basis it is considered that only a contemporary design of this scale is appropriate. Instances where granite would be appropriate on the site would be for a building much lower in height and width, such as a dwelling, where the incorporation of granite and a slate roof could be in-keeping.

The building would be sat on a plinth, which has been amended to granite from a grey brick with slurry mortar. It is considered that this granite plinth ties the proposal to the adjacent area, from which the glass element would be placed upon. There are no objections in principle to the use of the materials now proposed. A glass building would appear contemporary in its appearance and design. It is judged that a successful building on the site could only be one of good quality materials. The use of granite in the lower walls complies with planning policy D4 of the Local Development Plan as the existing granite rubble boundary walls would be replaced with granite.

In terms of the height of the building, it should be noted that the building in application A2/0173 from the Oldmill Road elevation measured 13.3 metres high to the eaves (at most) with a maximum ridge height of 15.7 metres from ground level. The current proposal from Oldmill Road to the highest part of the building is between 11.9 and 15.7 metres, bearing in mind that the current proposal has a flat roof. The south-west elevation showed the building 16.9 metres in height to the ridge, whilst the current proposal is 16-17 metres above ground floor level. Whilst the building in A2/0173 was located in the most north-easterly corner, it terminated in a similar position as to this current proposed building. The submitted levels details show that the existing ground level is in the region of 13.6-14.2 metres, after development it would be approximately 13.3 metres. The current proposal is therefore of a similar height to A2/0173, but it does have a much smaller footprint. Furthermore, the previous proposal was for flats which require amenity space, this current proposal does not require such a good degree of amenity space, being for serviced apartments and a business unit.

On balance it is considered that due to the use of the materials that there are no over-riding objections to the proposal on design grounds. The use of glass can complement granite buildings. The site does lie within a Conservation Area and it is considered that the proposal does not detract from that in terms of its use of materials. The incorporation of a flat roof is a challenge for this site, but does enable the appearance of the building to sit lower than it would with a conventional pitched roof.

The impact of the proposal in the context of views of the Bon Accord Crescent is varied. The design statement considers it acts as a termination to the Crescent. The building would appear to have 3.5 floors elevated above the road along the Crescent. Given the backdrop from views afforded within the area this impact is considered on balance acceptable.

One consideration that has not been fully explored is the impact of the proposal in the night. As the building consists of glass the spill of light will be potentially high. The design statement notes that blinds will be used, but there can be no enforcement of this. The building could appear as a lit beacon, causing spill of light into the Bon Accord Terrace Gardens and surrounding areas, which would be at odds with the neighbouring buildings which are mainly of granite. Details were requested, but have not been submitted. The agent considered that the building would be a positive impact as it would provide natural lighting to the lane. The addition of blinds could mitigate against the impact of light. However, there remains concern that due to the height of the building and its floor to ceiling glass design, would result in the building having the potential to shine like a beacon, being seen from Bon Accord Terrace Gardens, Springbank Terrace, and Willowbank Road. The use of blinds cannot be enforced. The impact during the evening could be widely altered and affect the immediate environs, particularly so in the winter months when it is dark earlier in the evening and when trees are not in leaf. This would have an impact on the area and its character. The granite buildings adjacent are in contrast being shorter in height, and having a high solid to void ratio, which means lighting is more controlled with limited light spill which is characteristic of domestic properties.

## Residential Amenity

Policy H1 (Residential Areas) of the Local Development Plan states that new development will only be permitted if it does not constitute over development; does not have an unacceptable impact on the amenity or character of the surrounding area; does not result in the loss of open space as identified in the 2010 Audit; complies with Supplementary Guidance on Curtilage Splits and House Extensions.

The Supplementary Guidance on Curtilage Splits and House Extensions are not directly relevant as the proposal is for a commercial development, but it is considered that the principles contained within the two guidance's are applicable as they consider the impact of residential amenity, and provide calculations and standards to assess the impact of development on amenity.

The main amenity impact of this proposal is on the properties along Springbank Terrace, and 76-82 Bon Accord Street. The nearest property along Bon Accord Crescent has a blank gable facing the site and it is therefore considered that there would be no adverse impact on amenity.

Supplementary Guidance considers privacy, daylight and sunlight. Other material planning considerations include outlook, from the houses and private gardens and the impact of light pollution.

In terms of noise, this has been assessed above under principle of development, in the sense that the proposed use is considered compatible within a residential area. In terms of nuisance during the construction period, it would be prudent to consider applying a condition to protect residents from the disruption of living adjacent a site whilst it is under construction by controlling the timing of the works.

### Privacy

The applicant considers that privacy is not an issue because of the design of the building, its distance between the edge of the building and the nearest residential dwelling, the use of upstands within the building, and the inclusion of a planted screen.

The applicant has submitted a section to show the impact of privacy. Furthermore, amended plans were submitted to include a Trombe wall which is a panel attached to the inside of the building which prevents views, which would be in place on only the top floor. The panel is located on the elevation facing towards Springbank Terrace, 5.6 metres in length. It is located set in from the eastern corner some 1.5 metres and set in some 1.8 metres in the western corner.

The privacy section shows that from levels 1-3 views towards Springbank Terrace are obscured by the proposed tree belt, views from level 4 would only be obscured by the existing tree in the neighbouring garden, which does not obscure all views towards Springbank Terrace being located in the rear garden of number 25. Whilst views from floors 5 and 6 due to the elevated height above the dwellings would tend to be over the ridge line of Springbank Terrace.

The Supplementary Guidance- Sub-division and Redevelopment of Residential Curtilages, states that some elements of the guidance are applicable to other types of development than residential. The guidance is considered applicable to assess the impact that the proposal would have on the amenity of the neighbouring residential properties.

Under privacy, the Guidance states that as a general guide there should be a minimum of 18 metres separation distance between the windows of existing and proposed habitable rooms. Furthermore, that there will be some instances in which greater separation distances are appropriate, for instance where there are differences in ground levels or where higher buildings are proposed. The guidance states that in circumstances where effective screening is proposed which would not obstruct light then the distance can be reduced.

The submitted privacy section shows a separation distance of 20 metres, but there are two properties on Springbank Terrace where this separation distance is 18 metres, numbers 25 and 26. A tree planting scheme is proposed which would provide a screen. It should be borne in mind that the long term retention of any planted trees is secured by the fact that the site lies within a Conservation Area, and that the removal of a tree or works to a tree would require formal consent from the Planning Authority. The trees to be planted are between 3.5 - 4.5 metres in height. This means that the privacy section is not entirely accurate, as the trees shown are higher. It is considered therefore that views could be obtained from the third floor upwards towards the houses on Springbank Terrace. Furthermore, a tree screen is only partially effective, and during winter months would have no foliage being deciduous. Evergreens are not considered appropriate, in terms of context or residential amenity because whilst it would have the ability to act as a privacy screen it would potentially block out light. But during the winter months it should be noted that the screen would be less effective. Furthermore, the planting of such trees close to the boundary could reduce light to the habitable rooms and gardens of the houses on Springbank Terrace, particularly during the summer months when the trees are in leaf. The supporting documentation notes that the trees will not totally obscure light. However, it is considered that the trees would reduce the level of light, which is important given the orientation of the rear elevation of the houses to the north. This light would impact not only on the habitable rooms of the dwellings, but also the garden areas, some of which are only 11-12 metres long. No detailed assessment has been provided on the impact that the tree belt would have on properties along Springbank Terrace in terms of loss of light.

Furthermore, due to the height of the proposal, the supplementary guidance suggests that the separation distance between habitable rooms to retain privacy levels should be greater.

The proposal has considered privacy, introducing upstands into the design, a Trombe Wall in the top floor, and the introduction of a tree screen which are all positive elements to reduce the impact of the loss of privacy. However, to be effective the tree belt will take time to mature, and in itself could reduce amenity by way of loss of light. The tree screen in terms of privacy will be less effective during winter. The feeling of loss of privacy is further exacerbated with the floor



to ceiling use of glass within the building. It is considered that the loss of privacy to the properties on Springbank Terrace, 22-27, is unacceptable and contrary to policy H1 of the Local Development Plan.

The applicant contends in the supporting statement that the houses along Springbank Terrace are currently overlooked by Oldmill Road, the Gardens, and other adjacent roads. However, these roads and gardens are further away from the properties on Springbank Terrace than the site, and it is very different to have occupants of a building causing loss of privacy than passers by walking along a street. The loss of privacy caused by passers by is momentary, which is different in nature to an occupied building.

#### Daylight

The Supplementary Guidance states that applications should be supported with calculations and illustrations based on the BRE information paper on site layout planning for daylight 1. Using the Supplementary Guidance the proposal clearly breaches this. When applying the calculation to the privacy section plan accompanying the application, the building's height at that particular location exceeds the level required by 7.5 metres. Due to this consideration the applicant was asked to provide more detailed calculations on impact on daylight. The Vertical Sky Component (VSC) has been used, which is also supported by BRE and the Councils Supplementary Guidance. VSC is expressed as a percentage of daylight falling from unobstructed sky onto a vertical window. The calculations, as presented by the applicant, concludes that there would be no adverse impact. It should be borne in mind that the calculations do not take into account the proposed tree screen which could potentially further block out day light, particularly during summer when the trees are in leaf.

#### Sunlight

The proposed development is on the north side of Springbank Terrace, the impact on sunlight is therefore considered minimal. Supplementary Guidance, Householder Development Guide, addressed the impact of sunlight and overshadowing on gardens and houses caused by proposed development. It has an assessment on how to consider loss of sunlight, including taking into account orientation. Using this calculation the proposal would not have an adverse impact on loss of sunlight.

#### Outlook, from the houses and private gardens.

The proposed building will be in some cases 18 metres from the rear elevation of the properties of Springbank Terrace, and between 5.2- 8.0 metres off the rear boundary wall. The building, due to change in levels will appear 17-20 metres in height when viewed from a number of the private gardens on Springbank Terrace. In addition the tree belt will, from when it is first planted, be some 8 metres higher than some of the garden levels, the impact of which will increase as the trees mature. Whilst the introduction of greenery may be welcomed, the necessity of the tree belt as a result of the proposal and the height of the building are such that it is considered that the outlook from the gardens and the residential properties would be adversely affected. Currently the properties have quite an open aspect, and whilst the loss of view is not a material planning

consideration, the impact of outlook is. The introduction of such a tall feature is alien and would appear close to the rear boundaries and be overbearing, and as such would adversely affect the residential amenity.

Impact of light pollution.

The impact of the proposal during the night is such that the properties on Springbank Terrace could be exposed to light emanating from the apartments when illuminated within the proposed building. Whilst to a degree occupants of the individual houses could utilise curtains and blinds this may not always be appropriate. The occupants of the apartments could not be forced to use blinds, and may wish not to, given the panoramic night time that would be afforded by the elevated location of the building. The impact of light pollution on the properties to the rear given the floor to ceiling glass and the height of the building could not be fully mitigated against. This light pollution could have a negative impact on the residential amenity of the occupants on Springbank Terrace. The applicant has been requested to consider night time impact, but has not provided any information. It is therefore considered that there is a lack of evidence to suggest that the proposal would not have an adverse impact. It is therefore considered that the proposal fails to address the impact of light pollution upon residential amenity.

### Road Safety

There have been a number of objections relating to roads issues such as road safety, lack of car parking and access to the site, increase of traffic, indiscriminate parking, and impact during construction.

The Roads Project Team has commented that the proposal does not include any provision for the car, noting that the immediate locality is a controlled parking zone which should discourage indiscriminate car parking. None of the future residents of the development would be eligible for parking permits.

Cycle storage space is shown on the plans, and is to the level required by roads. The outside two stands would need to be relocated to ensure a minimum 500m between stand and building, but there is sufficient space to accommodate this.

It should be noted that as the proposal is car free, it is a requirement to encourage other modes of transport, that the developer provides and maintains two bicycles for use of residents.

Roads Project Team has advised that it would like the provision of car club membership for all occupants during their stay, and the applicant has submitted evidence to show that there is a feasible scheme being developed, all of which could be secured by condition.

Servicing details have been provided, and the roads project team have no objection to this consideration.

The issue of Oldmill Road in terms of being a dark place has been raised. The agent is in agreement in principle to install lighting which can be adopted by the

Street Lighting Team. In addition the proposal includes lighting incorporated within the new wall along Oldmill Lane, details of which can be secured by condition. Lighting would need to be appropriate, but it is considered that subject to condition, the proposal will enhance the feeling of safety and security along the lane, which is currently a dark place at night, which can deter pedestrians.

It is acknowledged that there may be issues with the gradient of the lane which could prevent all round accessibility. The application makes provision for a disabled unit, though it is unlikely one could be enforced because of the challenges of accessing the site. Roads have no objections to this element, but consider it is prudent to raise given the Disability Discrimination Act. The application is supported with a statement on all round accessibility considerations to the site and the building. The management of the proposed building would consider local maintenance of the road such as salting Oldmill Road and clearing snow when appropriate. It should be noted that this cannot be secured by condition, but given the nature of the application, it is considered that management of the building would be motivated for business reasons to actively manage access to the site,

Finally, the Roads Project Team request a Travel Plan, secured by a legal agreement. A draft travel plan has been submitted, but further details would be required. Supplementary Guidance clearly states that such a Plan can be secured by legal agreement or condition. The Scottish Government states that planning conditions are preferred over legal agreements. Legal agreements should only be used when a condition cannot secure the requirements sought. In this case it is considered that condition(s) are the most appropriate control.

On the basis that the Roads Project Team has no objection, it is considered that the concerns raised in the letters of representation have been addressed. The parking concerns have been mitigated against. Indiscriminate parking can be controlled, and it is considered that there are no road safety issues. It should be noted that in terms of sustainability the site is located within the city centre, and close to Union Street, where buses, taxis and trains can be easily accessed. The proposal complies with Local Development Plan policy D3 and Supplementary Guidance Transport and Accessibility.

### Drainage

A drainage plan was received from the applicant. This shows that drainage will be a mixture of permeable surfaces and perforated pipes. An attenuation system will be incorporated. The applicant has undertaken percolation tests for the site and has submitted drainage calculations with the planning application. The EP&I Flooding Team have advised that surface water drainage proposals will be required. There is sufficient information to give confidence that a system can be installed. Full details can be secured by condition, and it should be borne in mind that Building Standards will consider this aspect also. It is considered that there is sufficient information at this stage to overcome any drainage concerns.

Scottish Water would assess the capacity of its network to accommodate the development at the time the applicant applied for new water and waste water connections. In line with other developments it does not generally object to planning applications, but considers such proposals at the time of application to its services for connection.

### Other Considerations

One policy consideration is the use of Zero Carbon Technology. Planning Policy R7 of the Local Development Plan, states that all new buildings must install low and zero-carbon generating technology to reduce the predicated carbon dioxide emissions by at least 30% below 2007 building standards. The application is supported with a sustainability statement, and there are sustainable features incorporated to achieve the standard which is the installation of a mechanical ventilation system with heat recovery and a ground source heat pump. Details and evidence of the compliance of the standard can be secured by condition.

The application proposes to repair the cast iron railings along Bon Accord Crescent as an overall benefit.

It should be noted that the Developer Contributions Team was consulted. It has been judged that there should be a contribution towards environmental and access improvements, in particular improving the linkage between the core path network. After careful consideration in lieu of a financial contribution, it is considered that the proposed lighting of the lane and repair to the cast iron railing section adjacent the site, could be conditioned, thus negating the requirements for a legal agreement, whilst ensuring that the overall aim of improvements to the linkage between the core paths is achieved.

There are a number of considerations that were raised in the letters of representation which have not already been discussed above. Those aspects are dealt with in this section of the report.

- Introduce more people into the area

The proposal will generate additional visitors to the immediate locality to what is otherwise an undeveloped site. However, whilst there are some concerns raised in connection with the proposed development and its impact, in terms of more people this can be an advantage in terms of providing a level of surveillance to the area. An area which provides more people can actually be a benefit as it becomes used. The thrust of national and local policy is to encourage development within urban centres, including cities.

- Increase in crime

There is no evidence to substantiate this statement. Indeed as referred to above, the introduction of a use on this site can provide surveillance and act as a deterrent to crime. Planning Advice Note 77, Designing Safer Places supports this view.

- Title deed allows right of access over the site; lack of access would be a fire hazard

- Affect on private right of way during construction

In relation to the two points above, the private access rights of an individual are not a material planning consideration, and it is a private civil matter. It should be noted that the granting of any planning permission would not override other legal considerations, but it is outwith the remit of planning control.

- Risk of safety to the nearby school

The proposal would not have a direct impact on the school.

- Affect B&B businesses (parking, business amenity)

The commercial impact of a proposed development on existing businesses is not a material consideration. Parking is considered above, under Roads section.

- Already too many B&B type businesses

- No need for such additional businesses. There are existing empty units which could be used

In relation to the two above points, the market conditions for whether a business is needed or not, and whether it would have an impact on the commercial viability of existing businesses are not relevant planning considerations.

- Previous applications refused

This application is different from the previous planning application. The planning history has been provided within this report for consideration. All planning applications should be considered on their own merits.

- The timing of the application

The Planning Authority cannot control when a planning application is lodged or made valid. However, additional time for lodging objections was provided. The planning application was validated on 12.12.2012, neighbour notification was undertaken on 17.12.2012, however, the expiry period for overall objection was 7<sup>th</sup> February 2013, which is considered sufficient time for responses. Any requests made to the planning service for additional time to comment were granted.

- Inaccurately labelled plans (Springbank Terrace labelled as Willow Road; Oldmill Road labelled as Oldmill Lane)

- Size of apartments unknown

The plans do show the road names, and some may have not be shown correctly. However, all roads are labelled, and the planning application has been assessed carefully in terms of its impact. No objections have raised concern over the size of the apartments. They vary in size with the more common being 36-38 square metres. The top floor consists of one apartment of almost 119 square metres.

- Proposed building not show in context with existing buildings

The application is supported with a number of plans which attempt to show the building in context with other buildings. The concern of context is addressed in terms of the wider impact other than local, in particular under impact at night.

- Damage and undermining existing boundary walls

The damage caused to another parties property is not controlled by Planning, and is a separate legal matter. The planning application includes details of the structural planters which show there will be supporting stakes and posts, which will be set in some 25-30 centimetres from the boundary wall.

### **Note**

If the Development Management Sub-committee resolves to approve the application against the recommendation the follow issues would need to be covered by planning conditions. This list is not exhaustive:

A sample of external materials; full details of the boundary treatment; construction hours; full surface water drainage proposals; detail of compliance with low and zero carbon supplementary guidance; secure the submitted planting scheme; street lighting; car club; cycle parking; provision of two cycles within the site for use by occupants; Travel Plan; occupancy condition (ensuring occupied as serviced apartments and not as dwellings).

### **RECOMMENDATION : Refuse**

### **REASONS FOR RECOMMENDATION**

The proposal by virtue of its design, scale and mass would have an adverse impact on the residential amenity of the residents of Springbank Terrace, numbers 22-27, by way of loss of privacy, loss of light, and negative impact on the outlook of the properties on Springbank Terrace contrary to Planning Policy H1 of the Aberdeen Local Development Plan (2012)

The proposal by virtue of its design and scale would have an unacceptable impact in terms of light pollution which would be detrimental to the amenity of nearby residential properties, and the amenity of the Conservation Area. The application has not fully considered the impact of the light emanating from the building. The proposal is therefore considered contrary to Scottish Planning Policy, Scottish Historic Environment Policy, and Policies D1 and D5 of the Local Development Plan as the illuminated building would have an adverse impact on the wider Conservation Area, both in terms of views within the Conservation Area and views outwith the Conservation Areas. Furthermore, the application is considered contrary to planning policies D2 and H1 of the Local Development Plan as light spillage to adjacent residential properties can not be fully mitigated, which is further exacerbated by the ground levels and height of the proposed building, and therefore would adversely affect residential amenity of the occupiers of 22-27 Springbank Terrace.

**Dr Margaret Bochel**

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