



## **DESCRIPTION**

The site is located at 93 Ashley Road, and sits to the south side of Union Grove, approximately 15 metres from the traffic lights at the crossroads of Union Grove, St Swithin Street and Ashley Road. The site comprises the garden ground of 93 Ashley Road which houses mature shrubs and planting and is surrounded by a tall rubble wall with brick coping stones. The site occupies an area of 131m<sup>2</sup> approximately. The premises is located within the Albyn/Rubislaw Conservation Area and in the St Swithin Street neighbourhood centre.

## **RELEVANT HISTORY**

There is no relevant planning history with this application.

## **PROPOSAL**

It is proposed to erect 2 no. flats within the garden ground of 93 Ashley Road. The premises would be 2 storeys high with a pitched roof. The ridge height of the roof would be 9.5m with the gable reaching 9.7m. There would be a set back projection on the east elevation accommodating the hall and stairs to the upper floors, this would be 7.8m to the ridge height and 8.1m to the gable. The main premises would be 6.6m wide and 7.8m deep, and the projection 2.4m wide and 4.5m deep. One flat would be 2 no. bedrooms and would occupy the first and attic floor of the premises. The ground floor flat would be 1 no. bedroom. The frontage would face Union Grove, and the building would be on the same building line as the bay windows and be of the same height as the neighbouring properties on Union Grove. The proposal would be finished in granite on 3 no. elevations, with the rear being harled. The roof would be natural slate with a fireclay ridge. Rainwater goods would be cast iron and painted black. Both properties would have a door accessing Union Grove and the windows would be timber sash and case painted white. Car parking, cycle parking, bin storage and outside washing space would be provided, with the cycle parking, bin storage and washing area being behind a 1.8m timber fence. To accommodate the flats would involve demolishing the existing washhouse (approximately 5.25m<sup>2</sup>) associated with 93 Ashley Road and the removal of a length of 8.4m approximately of the 14m rubble wall and a reduction in height of the remainder of the wall.

## **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?121783>

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 a total of 7 no. letters of representation have been received. Further to this, the Council's Roads Projects Team have objected to the proposal citing unsafe vehicular access. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation

## **CONSULTATIONS**

**Roads Project Team** -Response received – Object.

Adequate car parking spaces have been provided, cycle parking information needs to be provided, and there is adequate pedestrian and public transport accessibility. Object to the proposal due to unsafe vehicular access.

**Environmental Health** -Response received – a condition should be applied on construction hours.

**Enterprise, Planning & Infrastructure (Flooding)** - response received – a condition should be applied for surface water drainage proposals to be submitted for approval

**Community Council** - no response received

## **REPRESENTATIONS**

7 no. letters of representation have been received, all object to the proposal. The objections raised relate to the following matters.

### Issue 1 – Impact on Conservation Area and Street Trees

- The removal of the wall, this is a consisted feature of the area
- The development would cause significant negative impact on the locality
- The impact on the development would have a drastic impact on the appearance of this corner of late Victorian Aberdeen
- The possible removal of street trees would be detrimental
- The construction would damage the visual amenity of the area

### Issue 2 – Pattern of Development

- The area has retained its architectural integrity. The linear layout of the street and the grid pattern has remained unspoilt to date.

### Issue 3 – Design and Materials

- The development is not in keeping with the surrounding Victorian developments either by design or size
- The materials are not acceptable, especially the rendered elements
- The proposed construction would be in direct contrast to the surrounding area

### Issue 4 – Impact on Amenity

- The removal of amenity space for the existing property
- The removal of garden ground would significantly impact on the visual amenity of the neighbourhood
- The detrimental impact on sunlight and privacy to the surrounding properties

### Issue 5 – Pedestrian and Traffic Safety (including off street parking)

- The proposal is in close proximity to the traffic lights at the crossroads of St Swithin St/Ashley Road and Union Grove.
- The area is heavily trafficked with pedestrians and vehicles, this is heightened by the close proximity of Ashley Road School
- Vehicles crossing the pavement would be a hazard to parents and children going to and returning from school

- The provision of parking would require the pavement to be altered
- Allowing the parking would not be consistent with the regulations applied to other properties in the area and it out of character for the area
- Allowing off street parking would set a precedent which would change the character of the traditional terraces, and cause parking issues

#### Issue 6 - Drainage

- Virtually the entire site would be covered reduce the area for natural rainfall drainage and placing further strain on a section of the street drainage system already dealing with a 4 way junction and its attendant extra water catchment area.

#### Issue 7 – Security of Surrounding Properties

- The area would be more open to access from the street therefore increasing the security risk to the properties behind.

#### Issue 8 – Legal Issues

- 89 and 91 Ashley Road enjoys access of the garden ground at 93 Ashley Road for services and maintenance.

This is a legal issue and as such is not a material planning consideration and will not be discussed further.

#### Issue 9 – Construction Issues

- The structure of the outhouse, the shared chimney stack of 89/91 Ashley Road and the neighbouring properties will be compromised
- Concerns regarding dust, noise and pollution connected with the construction

This is not a material planning consideration. The structural integrity would be a Building Standards concern and the dust, noise and pollution concerns are the remit of Environmental Health who have made comment on the application.

## **PLANNING POLICY**

### **National Policy and Guidance**

#### Scottish Planning Policy

Scottish Planning Policy states the Scottish Planning Policy, Scottish Historic Environment Policy and the Managing Change in the Historic Environment guidance note series published by Historic Scotland should be taken into account by planning authorities when determining planning applications within conservation area. Scottish Planning Policy goes onto outline that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

#### Scottish Historic Environment Policy

Conservation areas are defined as areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.

## **Aberdeen Local Development Plan**

### Policy H1: Residential Areas

Within residential areas and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

Does not constitute overdevelopment

Does not have an unacceptable impact on the character or amenity of the surrounding area

Complies with the Supplementary Guidance on Curtilage Splits

### Policy D1: Architecture and Placemaking

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

### Policy D4: Aberdeen's Granite Heritage

Consent will not be given for the demolition of granite-built garden or other boundary walls in conservation areas.

### Policy D5: Built Heritage

Policy outlines proposal affecting conservation areas will only be permitted if they comply with Scottish Planning Policy.

## **Supplementary Guidance**

The relevant supplementary guidance for this application are:

The Sub-division and redevelopment of residential curtilages

Transport and Accessibility

## **Other Relevant Material Considerations**

Historic Scotland's Managing Change documents – Boundaries

## **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.

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.

### **Principle of Proposal**

The site is located within a residential zoning and as such any proposal for residential development within these areas will be approved in principle provided the proposal accords with a number of criteria. The three criteria which need to be met are; the development does not have an unacceptable impact on the character or amenity of the surrounding area, it should not constitute over development, and it should comply with the Supplementary Guidance on Curtilage Splits. These points will be discussed below.

### **Impact on the character and amenity of the area**

#### **Character**

The site is located within the Albyn Place/Rubislaw Conservation Area and as such the planning authority has a duty to preserve or enhance the character or appearance of conservation areas. The pattern of development within the conservation area is one of linear streets and a grid like pattern of development. Due to this pattern of development, a feature of the conservation area is crossroads, with the rear garden ground of one street is visible where it meets another street. These areas of visible garden ground are manifestation of the historic and planned nature of the conservation area, and embody the setting of the conservation area.

The Supplementary Guidance on the sub-division and redevelopment of residential curtilages (page 8) states, the loss of garden ground can be a material consideration that can lead to refusal of an application in circumstances where it is considered to make a significant contribution to the visual amenity of the neighbourhood. For example, the loss of mature or attractive garden areas that are prominent in views from adjoining streets.

The spaces between the buildings created by the garden space, and other amenity spaces, define the character of the conservation area. Alongside the visible rear gardens, a further feature which is typical is the rubble wall which runs along the garden ground. These characteristics reflect the intricate relationship created between buildings and their surrounding spaces created by gardens and other features. The visibility of the rear gardens due to the pattern of development and the high rubble boundary walls are principles features of the conservation area which epitomize its character and appearance.

Historic Scotland's Managing Change document on Boundaries (2010:2) outlines walls, fences and other boundary treatments form important elements in defining the character of conservation areas, and can be valuable in their own right as major elements in the design of a historic building and its setting, or in a broader streetscape. It goes further to state, 'The layout and design of a boundary, its materials and method of construction, and the way in which it relates to other structures can be important elements of the character of a building or street, or contribute substantially to the sense of place and historical understanding of ...the urban landscape' (ibid: 4).

With regard to the modification of boundary treatments, the managing change document (2010: 6) outlines, 'All alteration proposals must take into account the design and material characteristics of the historic boundary. Lowering of walls to create better sightlines can be damaging to the character of the boundary'. With the formation of new openings, these need to be considered 'in light of the overall composition of the boundary and assessed as to whether it would be consistent with the existing design' (ibid: 7).

The garden ground and walls themselves add to the character, setting and appearance of the conservation area, and provide the area with a distinct sense of place. The removal of the garden ground and the wall and the lowering of those sections left would have a detrimental impact on these elements, and in turn on the character and appearance of the conservation area.

Further to this, Policy D4: Aberdeen Granite Heritage outlines consent will not be given for the demolition of granite-built garden or other boundary walls in conservation areas.

The existing outhouse to the rear of 93 Ashley Road is proposed to be demolished. Outhouses are a very common feature of traditional buildings in Aberdeen and are prevalent within the conservation area. The removal of the outhouse, which is visible over the existing rubble wall, would not preserve or enhance the conservation area.

### Amenity

The supplementary guidance on the sub-division and redevelopment of residential curtilages suggested a number of issues are required to be addressed. Initially it outlines that new residential developments should not borrow amenity from existing development. The impact on the amenity of the surrounding area and the neighbouring properties are assessed below.

- Privacy

There is a general guideline of a minimum of 18 metres between the existing and proposed habitable rooms. Due to the position of the building, the frontage sits approximately 24m from buildings across the street. The gables of the proposed dwelling would have windows, yet on the ground floor these are screened by 1.8m fencing and on the west elevation the window under the gable is offset from the windows and glazed entrance of 249-251 Union Grove, also the windows in the Union Grove property are for non-habitable space, the stairway. There are no windows proposed on the south elevation. As such there are no privacy issues with the proposal and the development accords with this section of the supplementary guidance.

- Amenity Space

The existing pattern of amenity ground within the street comprises flats and tenement blocks that have rear garden ground. The supplementary guidance states (page 4) the provision of garden ground or amenity areas is expected, even in flatted developments. There is the provision of amenity ground to the gable of the flats; however this is to the detriment of the existing amenity as the proposal would remove the amenity space from the existing dwelling. As such the proposal would borrow amenity from the existing development, therefore does not accord with the supplementary guidance.

- Daylight and sunlight

The curtilage supplementary guidance (page 5) states new dwellings should be designed and orientated to exploit opportunities for sunlight in order to provide a pleasant living environment and maximize passive solar gain. To combat potential issues with privacy, there are no windows on the south elevation of the proposed building, therefore very limited opportunity to maximize passive solar gain.

The proposal would be built to the garden boundary wall of the neighbouring property and as such there would be an impact on the neighbouring garden. There would be an increase in overshadowing from the existing arrangement. Using the 45° method, a shadow of approximately 5.7m would be cast from the building. The garden ground of 89-91 Ashley Road measures approximately 9.9m, therefore the proposed dwelling would have a significant impact to overshadowing of the garden ground.

The character and appearance of the conservation area would not be preserved and enhanced and as such the proposal would not comply with the Scottish Planning Policy, Scottish Historic Environment Policy, the Managing Change in the Historic Environment documents on Boundaries and therefore in turn does not comply with Policy D5: Built Heritage of the Aberdeen Local Development Plan. Further to this, the proposal does not accord to Policy D4: Aberdeen Granite Heritage. The removal of the outhouse, the boundary wall and development within the garden would be at odds with the existing pattern of development within the area and would have a detrimental impact to the conservation area. The amenity of the area would also be detrimented due to loss of amenity and overshadowing. The proposal therefore does not comply with Policy H1: Residential Areas, nor does it comply to the supplementary guidance on the Sub-division and redevelopment of residential curtilages.

## **Design and Materials**

### **Materials**

Policy D1: Architecture and Placemaking and the supplementary guidance on the sub-division and redevelopment of residential curtilages both note the requirement for new developments to be designed with due consideration for its context. The supplementary guidance outlines (page 5) care should be taken to ensure new dwellings incorporate design elements and materials that respect the character of the area. Further to this, it notes in conservation areas where granite architecture predominates, there will be a requirement that all elevations of new

development that would be prominently visible from the street (including gables) should be finished with natural granite and the main roof should be of complementary natural roofing materials (almost always natural slate).

Following the submission of amended drawings, the three publically visible elevations are proposed to be granite. This, along with the natural slate roof and fireclay ridge, timber white painted sash and case windows and iron rainwater goods, emulate the features of the conservation area and the materials are acceptable. The elevation to the rear of the proposed property would be harled. The rear of the building would sit roughly 50m from Ashley Lane. Due to the location of the proposed premises the rear of the building would not be visible from Union Grove or from Ashley Lane, therefore this element is acceptable.

### Design

The buildings on Union Grove are also simply designed, with a number of variations present such as bay windows, but are symmetrical in form. The design of the proposal is simple and the flush façade and tabling does emulate many of the buildings on the north side of Union Grove, however the set back element of the second entrance and the unsymmetrical layout of the windows are not typical in the surrounding area.

The proportions of the existing building on Union Grove have a vertical emphasis, which is emphasised by details such as the tall windows and doors, the height of the individual storeys and the eaves height. The proposed building would have a more horizontal element. The eaves height of 249-251 Union Grove is 6.2m, the highest point of the ground floor windows and the entrance door on the front elevation is 2.8m from ground level. The proposed dwelling would be 5.5m to eaves height, and the ground floor windows and doors would be 2.2m from ground level. The proportions of the proposed building do not respect the horizontal emphasis of the existing buildings in the street. The proposed development would not be a positive contribution to its setting on design grounds.

The materials proposed area acceptable; however, the design of the building would be out of keeping with the character of the area. On balance, the proposal therefore does not comply with Policy D1: Architecture and Placemaking nor with the supplementary guidance on the sub-division and redevelopment of residential due to design aspects.

### **Density, Pattern, Scale of development**

The supplementary guidance states (page 5) the construction of a new dwelling or dwellings within an established area will affect the overall density and pattern of development of the surrounding area, the acceptability of which will be dependent on the general form of development in the locality. Consideration must be given to the effect the dwelling may have on the character of the area formed by the intricate relationship between buildings and their surrounding spaces created by gardens and other features. New dwellings must be designed to respect this relationship. As a general rule, no more than 33% of the total site area for each individual curtilage should be built upon, depending on the density within the surrounding area.

Within the Ashley Road/ St Swithin Street area the average plot coverage is 44%, while along the south side of Union Grove this sits at 33%. The plot coverage of the proposed and existing building on the site would be 58%. The predominant pattern of development in the area comprises buildings with publically facing front elevation with a more private rear garden, with areas of garden that are more visible at crossroads. The proposed development would not respect this pattern of development as it removes the private amenity space from the existing dwelling and does not propose any to the rear with the new dwelling.

The proposed dwelling would sit approximately 1m forward of the building line of the street, as it sits inline with the projecting bay windows of the neighbouring properties. The proposed development does not respect the building line of the street. The construction of the proposed development would constitute a form of development that is alien to the established density and pattern of development. The height of the proposed building, 9.5m to ridge height, does match 249-255 Union Grove. The buildings in the surrounding area are tenements or semi-detached four in a block flats, as such the frontage length of these buildings much exceed the frontage length of the proposed dwelling. The scale of the proposal is at odds with the surrounding area.

The proposal does not accord with the Supplementary Guidance on the Sub-division and redevelopment of residential curtilages with regard to density, pattern and scale of development, and the proposal can be classed as overdevelopment, therefore, does not accord with Policy H1: Residential of the Aberdeen Local Development Plan.

### **Pedestrian and Traffic Safety, Car Parking and Access**

The car parking length of 5m accords with the criteria as outlined in both the sub-division and redevelopment of residential curtilages and the transport and accessibility supplementary guidance. The Roads Officer is satisfied that an adequate number of car parking spaces have been provided within the site, and that, further to amended drawings being submitted, the cycle parking location behind the 1.8 timber fence is acceptable. The street trees are not proposed to be removed. The street trees are located within a conservation area therefore are protected. This cannot prevent development taking place, it does however ensure that the trees cannot be removed or cut until the Planning Authority has had the opportunity to fully consider the proposals.

The provision of front garden off street parking is not encouraged within conservation areas, as this can have a detrimental impact to the character of the conservation area. Union Grove is classed as a busy local distributor road and does not have front garden off street parking, therefore to introduce this feature would again be out of character with the area. Further to this, a Roads Project Team officer has assessed the application and has objected to the proposal due to unsafe vehicular access. On balance, the proposal would therefore not accord with either the supplementary guidance on the sub-division and redevelopment of residential curtilages or transport and accessibility.

## **Drainage**

The E, P&I Flooding team has assessed the application and have commented that should the application be approved, a condition is required to be attached for surface water drainage proposals.

## **Security of Surrounding Properties**

Although the proposal would remove the existing boundary feature, a 1.8m timber fence is proposed to be installed beyond the car parking. This would be a sufficient security measure.

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

The letters of representation received highlighted a number of concerns; some of these were not material planning consideration, as stated in the representations section.

The comments received relating to issue 1, 2 and 4 are considered under the section of the report titled Impact on the character and amenity of the area. The representation received under issues 3 are discussed under the title of design and materials. Pedestrian and traffic safety, (Issue 5) are assessed under the section entitled 'Pedestrian and Traffic Safety, Car Parking and Access'. Issues 6 and 7 are dealt with immediately above this section in the sections titled 'Drainage' and 'Security of Surrounding Properties'

## **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 the materials proposed for the public facing elevations and the roof, details of the boundary treatment, construction hours, surface water drainage proposals, a detailed cross section of the windows, the outer frame of the windows no more than 25mm of the window shall not exceed 25 mm in width at the top and sides of the window opening, details of the skylights, details of the cycleparking, protection of street trees during construction, detail of compliance with low and zero carbon supplementary guidance.

## **RECOMMENDATION**

### **Refuse**

## **REASONS FOR RECOMMENDATION**

The proposal for the erection of 2 no. self contained flats and associated works to 93 Ashley Road fails to comply with Scottish Planning Policy, Scottish Historic Environment Policy, Historic Scotland's Managing Change in the Historic Environment: Boundaries document, and therefore in turn with Policy D5: Built Heritage of the Aberdeen Local Development Plan. The proposal would not preserve or enhance the character and appearance of the conservation area. The demolition of the boundary wall does not accord with Policy D4: Aberdeen's Granite Heritage. Further to this, the proposal would not make a positive contribution to the surrounding area therefore the proposal does not accord with Policy D1: Architecture and Placemaking. The proposal falls short of Policy H1:

Residential and in turn the supplementary guidance on the sub-division and redevelopment of residential curtilages in terms of amenity, pattern of development and density. The proposed off street parking would not accord with the Transport and Accessibility supplementary guidance due to the proximity of the proposed car parking to the traffic controlled road junction and the public safety hazard this poses.

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