

# Planning Development Management Committee

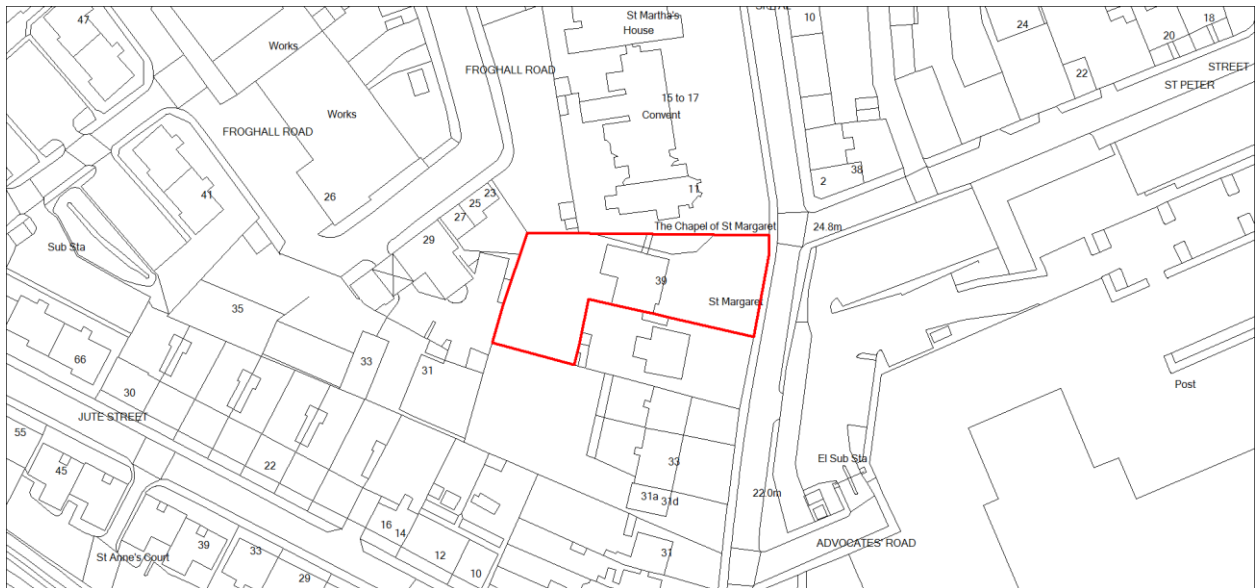
39 KING'S CRESCENT, ABERDEEN

CHANGE OF USE FROM RESIDENTIAL  
DWELLING TO HMO

For: Mr Sujon Hoque

Application Type : Detailed Planning Permission  
Application Ref. : P140715  
Application Date: 13/05/2014  
Officer: Gavin Clark  
Ward : George Street/Harbour (A May/J  
Morrison/N Morrison)

Advert :  
Advertised on:  
Committee Date: 24 July 2014  
Community Council : Comments



**RECOMMENDATION:** Approve subject to conditions

## **DESCRIPTION**

The application property is a two storey detached dwellinghouse, located on an elevated site to the west of King's Crescent, and within the Old Aberdeen/Balgownie Conservation Area. The existing property is granite built with a slate roof. The dwellinghouse to the south (no.37) is located at a lower level. The garden ground to the rear is located on a number of descending levels, and eventually sits significantly lower than the floor level of the dwelling; flatted properties are located, at a lower level, to the rear. The property is also located immediately adjacent, to the south, of the Category 'A' Listed St Margaret's Convent and Chapel. To the east, across Kings Crescent, is the First Bus Depot and associated staff parking, offices and garaging. There are a number of trees in the front gardens of the properties fronting King's Crescent.

## **HISTORY**

- An application for planning permission (Ref: 120520) is currently pending consideration for alterations to the boundary wall of the associated property.
- Planning permission (Ref: 120205) was approved in April 2012 for alterations to the associated access gates.
- An application for planning permission (Ref: 120204) is currently pending consideration for the erection of a greenhouse, raised decking and external steps to lawns, formation of retaining walls and alterations to the boundary walls. Parts of this permission have been implemented and a decision on the application is programmed to be taken in the coming weeks.
- Planning permission (Ref: 101949) was refused in February 2011 for the erection of a new garden wall on the southern elevation of the property.
- Planning permission (Ref: 89/2054) was approved in January 1990 for a change of use of part of the convent to form a diocesan centre.

## **PROPOSAL**

The proposal seeks planning permission for a material change of use of the property, to allow use as a House of Multiple Occupation (HMO). This would allow more than 5 unrelated persons to live in the premises together. No physical alterations are proposed.

## 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?ref= 140715>

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

## REASON FOR REFERRAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee as Old Aberdeen Community Council have objected to the proposal. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

## CONSULTATIONS

**Roads Projects Team** – have no objection to the application. They have advised that adequate parking would be available within the curtilage of the property, sufficient cycle parking facilities would be provided internally and adequate refuse storage facilities would be in place.

**Environmental Health** – no observations

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

**Community Council** – Old Aberdeen Community Council have objected to the application raising the following concerns:

1. The number of HMO's in the surrounding area, and whether the proposal would set an undesirable precedent for future development;
2. That there are long-term outstanding planning applications related to this site, which should be resolved before considering further applications.
3. That the development would affect the amenity of the area both for immediate neighbours and the wider community.
4. The impact of development on the existing building
5. That the proposal represents over-development of the site and over-occupation of the building.
6. The adequacy of the existing vehicular access;

7. Existing parking levels, and any excavation works which may be required to provide additional spaces;
8. That there is no lounge or other social area provision within the proposed development.
9. That the property is being advertised as a child nursery;
10. Concerns in relation to the neighbour notification/ advertisement process; and
11. That the proposal fails to accord with the Householder Development Guide.

## **REPRESENTATIONS**

Five letters of objection have been received. The objections raised relate to the following matters –

1. The proposal would have a negative impact on the character and appearance of the surrounding area;
2. The number of HMO's in the surrounding area, the existing overprovision, and the impact on the residential area;
3. That inadequate parking would be provided within the curtilage of the property, and concerns in relation to the existing access;
4. Permission should not be approved until such time that all outstanding applications on site have been determined;
5. That the internal layout of the property is not suitable, and the potential impacts any external alterations are likely to have

## **PLANNING POLICY**

### **National Policy**

Scottish Planning Series – Planning Circular 2/2012 (Houses in Multiple Occupation: Guidance on Planning Control and Licensing): states that planning authorities should be mindful of the potential impact that concentration of HMO properties may have on the amenity of the area. Essentially, it encourages policies being put in place in order to ensure there are not an over-concentration of HMO properties in particular locations.

## **Aberdeen Local Development Plan**

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

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

Policy H1: Residential Areas: The site lies within a designated Residential Area (H1), as defined in the Aberdeen Local Development Plan. Within such areas Policy H1 of the ALDP will apply, requiring that residential development will be acceptable in principle provided it satisfies certain specified criteria. The criteria relevant to assessment of this proposal are as follows:

1. It does not constitute over-development
2. It would not have an unacceptable impact on the character or amenity of the surrounding area
3. It would not result in the loss of valuable and valued areas of open space.
4. It would comply with the Council's Supplementary Guidance in relation to the Sub-division and Redevelopment of Residential Curtilages.

It is further stated that non-residential uses will be refused unless (a) they are considered complementary to residential use; or (b) it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

### **Supplementary Guidance**

#### Householder Development Guide – Houses in Multiple Occupation

This guidance sets the thresholds at which a house or flat will no longer be considered to be in domestic use and will thus be treated as a HMO, for planning purposes. Having identified where such changes of use take place, it is then necessary to set out the factors which will be considered in assessing any such application. These include, but are not limited to:

1. Any adverse impact upon pedestrian or road traffic safety as a result of increased pressure on car parking;
2. Significantly adverse impact upon residential amenity for any reason. This may include, but not be limited to, adequate provision of refuse storage space, appropriate provision of garden ground/amenity space, and an appropriate level of car parking; and
3. An excessive concentration of HMOs in a given locality, cumulatively resulting in a material change in the character of that area. Such considerations will be assessed in consultation with the Council's HMO

Unit within the Housing & Environment Service, who hold relevant information on the location of existing licensed HMO properties. Where it is not practicable for dedicated car parking to be provided alongside the development, a proposal must not exacerbate existing parking problems in the local area.

## **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. 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 Development/ Policy Assessment

The application site lies within an area identified as residential in the Aberdeen Local Development Plan. Within such areas Policy H1 (Residential Areas) is applicable, and advises that development would be acceptable provided it could satisfy the criteria set out in the Planning Policy' section above.

Whilst the intensity of the use is such that it is not considered to be of a domestic scale, and is therefore neither a dwellinghouse (class 9) nor a flat (sui a generis use), the nature of the use is nevertheless pseudo-residential in all other respects, and it is therefore appropriate to assess the proposal against the criteria applicable to residential developments under Policy H1. In this regard the proposal is not considered over-development, as no extension to the property or external alterations are proposed. It would not result in the loss of any areas of open space, as identified in the Aberdeen Open Space Audit 2010. Neither the Council's adopted supplementary guidance in relation to 'The Sub-division and Redevelopment of Residential Curtilages' or in relation to house extensions, as set out in the 'Householder Development Guide' are considered relevant, as the proposal does not involve the sub-division of the curtilage or an extension. However the 'Householder Development Guide' includes a section relating to HMO's, setting out the thresholds stated above.

Intensive occupation for residential purposes generally increases pressure on shared facilities, such as gardens, car parking and refuse arrangements. As noted earlier in this report, the Council's Roads Projects Team have accepted the provision of four car parking spaces within the curtilage of the site, and do not consider that the development would have any significant effect on existing on-street car parking, as the site is located within a Controlled Parking Zone. No concerns are raised in respect of pedestrian or road safety, or in relation to the existing access. A sustainable transport strategy (by way of leaflets and car club information) would also be provided by the applicant, which is to be implemented

via an appropriate planning condition. The property is large (currently containing 9 bedrooms), lies in close proximity to both the City Centre and Aberdeen University, and is located in an area of mixed residential accommodation, including individual dwellinghouses; higher density flatted blocks and student accommodation and has a large curtilage and garden area. The intensity of the use is therefore not considered to be fundamentally incompatible with the character and amenity of the surrounding area.

Provision is proposed within the site for shared facilities such as car parking (located to the front of the property), cycle parking (within the building) and refuse storage (located on the northern side of the building). A large amount of amenity space would also be afforded to the occupants of the property to the rear. A discussion with the Council's HMO licencing section has established that there are currently no arrangements for the monitoring of HMO concentrations in any given area and thus no data is available. However, it is noted that the property lies in close proximity to Aberdeen University, with the immediate area containing a mix of uses, with residential houses/flats neighbouring the site. Planning records indicate that only a limited number of HMO's have been granted planning permission (which is required for properties with more than 6 unrelated occupants) in the area. It is not considered that there is any clear evidence of an excessive concentration of HMO's in the locality, such that the character of the area could be considered to have changed and which may warrant refusal of planning permission.

No alterations are proposed to the building, thus no impact on the setting of the adjacent listed building, or the wider Conservation Area. The proposal is therefore considered to be compliant with Policy D5 (Built Heritage) of the ALDP.

#### Issues Raised by the Community Council/ Letters of Representation:

The issues raised in Old Aberdeen Community Council's letter of representation can be addressed as follows:

1. The issue of over-provision of HMO's as been addressed elsewhere within this report. It should also be noted that since this letter was submitted, the applicant has reduced the number of lettable rooms from 13 to 10;
2. It is noted that there are outstanding issues relating to other applications associated with this site. These are currently pending and their determination and can not hold up determination of the current application, it should be noted that these applications are due be determined in the coming weeks;
3. For the reasons mentioned within this report, it is not considered that the amenity of adjacent properties would be affected to an unacceptable degree;
4. The building is not listed, and therefore the planning authority has no control over internal alterations proposed, although such matters may be

- require building warrant. An informative can advise the applicant to check any such requirements with ACC's Building Standards Team;
5. No alterations are proposed, therefore the development could not be considered as over development of the plot. It has also been mentioned that the number of lettable rooms within the property has been reduced from thirteen to ten. As a result, it is not considered that the proposal would result in over-occupation of the property, particularly given that there are nine existing bedrooms. The applicants have indicated that this would be at a similar level of occupation as to what exists presently;
  6. The proposal has been assessed by colleagues in the Roads Projects Team, who have no objection. No alterations to the existing access are proposed as part of this application;
  7. The parking is existing, and no physical alterations are proposed within the site to accommodate further spaces;
  8. This point was noted, and the application was reduced from thirteen lettable rooms to ten. This allows for lounge areas at ground floor and second floor area, and for a further storage area at first floor level. The level of communal living space within the property is considered acceptable;
  9. The property is not in such use, thus this matter is not a material planning consideration in the determination of this application. If the applicants wished to use the property as a nursery then a further planning application would be required to consider such a proposal;
  10. Correct neighbour notification procedures were followed. As no physical alterations were proposed to the property there was no requirement to advertise the application in the press. In addition, the amendment reducing the number of letting bedrooms from 13 to 10 addresses some of the issues raised by the Community Council, and it was not considered necessary for further notification; and
  11. Compliance with the Householder Development Guide has been assessed elsewhere within this report.

In relation to the letters of representation submitted, all of the issues raised have been addressed in the sections above.



## Conclusion:

Taking these matters into account, it is concluded that the proposed change of use would not result in any undue conflict with the aims of policies T2 (Managing the Transport Impact of Development), D5 (Built Heritage) and H1 (Residential Areas) of the Aberdeen Local Development Plan, and the content relating to Houses in Multiple Occupation (HMOs) contained in the Householder Development Guide Supplementary Guidance. No material considerations have been identified that would warrant refusal of planning permission. The application is therefore recommended for approval, subject to appropriate conditions in relation to provision of cycle storage, sustainable transport information and a condition restricting the maximum number of occupants.

## **RECOMMENDATION**

**Approve subject to conditions**

## **REASONS FOR RECOMMENDATION**

That the use of the premises as an House of Multiple Occupation (HMO) is consistent with those uses in the surrounding area (which include residential, student accommodation and HMO's) and would not result in any undue impact on the character and amenity of the property, or those in the surrounding area. No physical alterations are proposed to the property, and the proposal would have a neutral impact on the character and appearance of the Conservation Area. The proposal would have no adverse impact on pedestrian or road safety, and there are currently an acceptable number of HMO's in the surrounding area. The proposal is therefore considered to accord with Policy H1 (Residential Development) of the Aberdeen Local Development Plan, and the relevant content pertaining to HMOs in the Council's adopted Householder Development Guide.

## **CONDITIONS**

**it is recommended that approval is granted subject to the following conditions:-**

- (1) That the proposal shall be implemented in accordance with drawing no. PL\_7B, in that the maximum number of lettable rooms shall be 10 – in order to protect the amenity of the proposed occupants and the surrounding area.
- (2) The the use hereby granted planning permission shall not be occupied unless the cycle storage facilities as shown on drawing no. PL\_7B have been provided - in the interests of encouraging more sustainable modes of travel.

(3) That prior to the date of occupation of the hereby approved House of Multiple Occupation (HMO), the developer shall submit details, for written approval by the planning authority of how and what information will be provided at the property (e.g. cycle route maps and car club promotional literature) which support sustainable transport in the area - in the interests of encouraging more sustainable modes of travel.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development