

Planning Development Management Committee

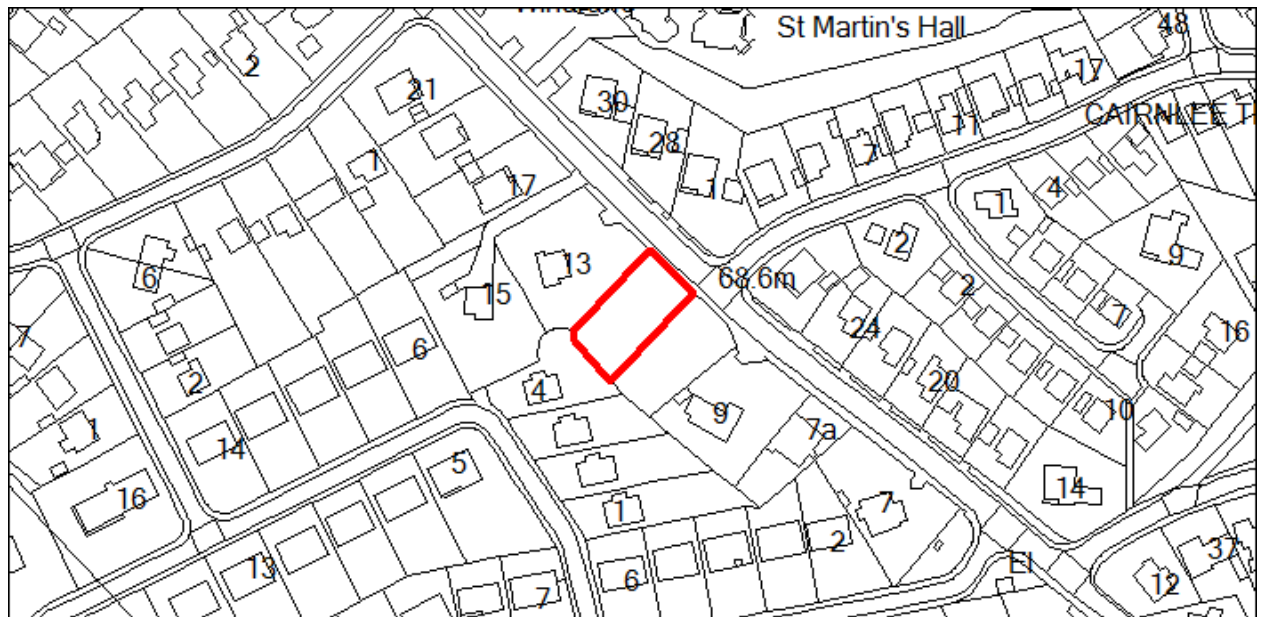
11 BAILLIESWELLS ROAD (SITE AT),
BIELDSIDE

PROPOSED NEW HOUSE

For: Hot Property Developments Ltd.

Application Type: Detailed Planning Permission
Application Ref.: P131698
Application Date: 26/11/2013
Officer: Andrew Miller
Ward: Lower Deeside (M Boulton/A Malone/M
Malik)

Advert: Dev. Plan Departure
Advertised on: 11/12/2013
Committee Date: 6 November 2014
Community Council: Comments



RECOMMENDATION:

Refuse

DESCRIPTION

The application site forms a vacant site covering an area of 809 square metres, once housing a single storey detached dwelling that was demolished several years ago. It is situated within a residential area on the eastern side of Baillieswells Road, adjacent to the junction with Cairnlee Terrace. An established beech hedge forms the boundary of the site with Baillieswells Road, whilst the remainder of the site is bounded by mutual boundaries with neighbouring houses formed by a mix of timber fencing, hedges and trees.

The surrounding area is formed of a mix of dwellings dating from the 1970-80s, characterised by detached houses set within relatively large gardens with a degree of separation between each dwelling.

RELEVANT HISTORY

P091403 – Demolition of existing house and erection of 2 detached dwellings at 11 Baillieswells Road, Bieldside refused detailed planning permission by the Planning Development Management Committee 7 January 2010. Subsequent appeal to Scottish Government Directorate for Planning and Environmental Appeals (DPEA) dismissed 12 July 2010 (DPEA Case Ref: PPA-100-2010).

P101484 – Proposed new house and associated site works at site at Baillieswells Road refused detailed planning permission by the Planning Development Management Committee 26 November 2010. Subsequent appeal to DPEA allowed subject to conditions 20 June 2011 (DPEA Case Ref: PPA-100-2026). The appeal was allowed on the basis that the proposal was supported by the terms of then local plan policy 40 (Aberdeen Local Development Plan 2008) for new residential development, and other aspects including privacy, residential amenity, daylight and sunlight, design and materials and density, pattern and scale of development. This site forms the other half of the vacant plot which is adjacent to the site subject to this application.

P140940 – Proposed new house at 11 Baillieswells Road granted detailed planning permission by the Planning Development Management Committee 25 September 2014. The submission was identical to that consented under application P101484 via DPEA Case Ref: PPA-100-2026 which had expired prior to submission of the application. This site forms the other half of the vacant plot which is adjacent to the site subject to this application.

PROPOSAL

Detailed planning permission is sought for the erection of a detached 2 storey dwelling within the north western half of the vacant plot. The proposed house would be relatively large, with the principle block of the dwelling measuring 16 x 12 metres, reaching a height of 8.9 metres to the roof ridge. A rear wing stepped

down to take account of the topography of the site would protrude by 7 metres at the rear of the house. The house would also contain an integral double garage.

Externally, the walls of the house would be finished in an off white render though the left hand side gable on the principle elevation would be clad in granite. The roof would be finished natural slate. A new access to the house would be taken from Baillieswells Road to the west of the site, with a driveway/turning area to the front of the house.

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=131698>

On accepting the disclaimer 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 because more than five in time letters of objection have been received, as well as an objection from Cults, Bielside and Milltimber Community Council. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Projects Team – No objections following amendments to access arrangement. Visibility splay to be provided at access of 2.4 m x 90 m free of obstruction above 1 metre in height. Refuse to be collected from kerbside.

Environmental Health – No observations.

Enterprise, Planning & Infrastructure (Flooding) – Clarification sought on drainage/treatment of surface water.

Community Council – Object on the basis that the proposed house is detrimental to the amenity and appearance of the location. This application appears to be an attempt to circumvent the original decision to refuse the original decision or refuse permission to build two houses within the curtilage. It is inappropriate for two houses of the scale proposed to be allowed for this site.

REPRESENTATIONS

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

- 1) Design/Siting
 - a) The density of the overall building proposed on site is far greater than the surrounding area.
 - b) One house existed previously on the site and remains suitable for only one house, not two.
 - c) The house is outwith the established building line.
 - d) Addition of sheds and greenhouses over time would result in a greater density over time.
 - e) Site is only suitable for single storey dwelling.
 - f) Whilst there are a variety of house types in the area, the main theme is spacious plots, not over-jarring development.
- 2) Amenity
 - a) Development will compromise the privacy of adjoining and nearby houses.
 - b) Closest window to rear of proposed house and conservatory of 4 Baillieswells Drive will have a separation of 19.82 m and whilst this is within the 18 metres advocated by the Council's guidance, taking account of the 2 metres elevation of the proposed house, this will result in a loss of privacy.
 - c) Over dominance of the neighbouring dwellings due to scale and size of dwellings.
 - d) Loss of light for neighbouring dwellings.
 - e) Possible increase in noise due to the over-dominance of proposed house.
 - f) House is closer to 4 Baillieswells Drive than that refused under application P091403.
 - g) Privacy of any future residents of proposed house should also be taken into consideration.
 - h) Any necessary screening to the rear of the property would restrict sunlight to the proposed house.
- 3) Road Safety
 - a) Baillieswells Road is a busy road, creation of new accesses will have implications on road safety.
 - b) Insufficient parking on site will result in visitors parking on Baillieswells Road, having implications for road safety.
 - c) Impact on children walking or cycling to school.
- 4) Trees
 - a) Site originally contained mature trees, that were felled and in the process the protected trees within the feu of the neighbouring dwelling (no 13 Baillieswells Road) were damaged, which resulted in their felling for health and safety reasons. Replacement planting in place should be offered protection on account of previous destruction.
 - b) Can loss of significant trees be a reason for refusing planning permission on a retrospective basis, taking account of planning guidance?
 - c) Development would impact on protected trees within boundary of 13 Baillieswells Road.
 - d) Beech hedge along Baillieswells Road has been neglected since the first planning application was submitted for the site.
 - e) Two entrances within hedge rather than one as existing.

- f) Removal of trees on site should have been referred to council with the planning application before they were taken down.
 - g) No information in supporting statement relating to protected trees that were a reason of refusal of application P091403.
 - h) The developer must replant the extensive trees that previously existed on site.
- 5) Flooding
- a) Development of site will exacerbate flooding at lower part of the hill.
 - b) No information submitted in respect of drainage of the site.
- 6) Supporting Statement
- a) Claim within Supporting Statement that dwelling was “Badly located to the rear of the site” is a matter of opinion rather than fact.
 - b) Site was well kept by the previous property owner and became poorly maintained when the site came into the applicant’s ownership.
 - c) Discrepancies between measurements in supporting statement and details shown in plans.
- 7) Precedent
- a) Would set an undesirable precedent leading to deterioration of character of the area.
- 8) Submission
- a) Disingenuous approach to a planning application by submitting one application at a time to erect two houses taking account of refusal of application in 2010.
- 9) Housing Numbers
- a) Council targets for housing should not be an excuse to squeeze two large houses into the site.

PLANNING POLICY

Aberdeen Local Development Plan (ALDP)

D1 – Architecture and Placemaking

New development 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, proportions, coupled with the physical characteristics of the surrounding area, will be considered in assessing that contribution.

H1 – Residential Areas

Within existing residential areas (designated R1), proposals for new residential development and householder development will be approved in principle if it:

1. does not constitute over development;
2. does not have an unacceptable impact on the character or amenity of the surrounding area;

3. does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010;
4. complies with Supplementary Guidance on Curtilage Splits; and
5. complies with Supplementary Guidance on House Extensions.

NE5 – Trees and Woodlands

There is a presumption against all activities and development that will result in the loss of or damage to established trees and woodlands that contribute significantly to nature conservation, landscape character or local amenity, including ancient and semi-natural woodland which is irreplaceable.

Appropriate measures should be taken for the protection and long term management of existing trees and new planting both during and after construction. Buildings and services should be sited so as to minimise adverse impact on existing and future trees and tree cover.

Supplementary Guidance

The Council's Supplementary Guidance documents on "The Sub-division and Redevelopment of Residential Curtilages" and "Trees and Woodland" are material considerations in this instance.

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 main considerations in this instance relate to the principle of the proposed house, the design and siting of the dwelling, the impact on the amenity of the surrounding area, the servicing provision and the impact of the development on trees.

Principle

The site was originally occupied by a single storey dwelling that was demolished in 2010. In relation to the principle of a dwelling on this site, the area in which the site is located is zoned as residential within the ALDP. Associated ALDP policy H1 creates a presumption in favour of residential uses within residential areas (subject to a number of considerations).

Relating to the development of the site, the plot in question is in effect a vacant plot, with the southern part of what was originally one plot having consent for a dwelling under application reference P140940. The plot does not form part of the garden ground of that consented under P140940.

Application P091403 was refused, with a subsequent appeal dismissed (DPEA Ref PPA-100-2010). The reporter for the appeal noted that the site was capable in principle of accommodating two dwellings. The appeal was dismissed on the basis that the dwelling proposed for the house on the site to which this application is subject to would overlook the neighbouring garden of 4 Baillieswells Drive, as well as the impact of the development on trees to the north of the site, which are protected under a Tree Preservation Order. Accordingly, the principle of the site being developed for a residential uses is considered to be acceptable. However consideration must be given to the how the dwelling would be accommodated on the site, paying regard to the design and siting of the dwelling, the impact on the amenity of the surrounding area, how the dwelling would related to the recently approved house on the other half of the site, the servicing provision and the impact of the development on trees.

Design and Siting

The site is located in a residential area with a mix of house types and sizes, though the size and layout (dwelling fronting to road) of the plots are in large similar but generally with a 6 – 8 metre separation between the buildings (on average). Policy D1 of the ALDP states that new development should be designed with due consideration for its context and make a positive contribution to the surrounding area. The objections received (see section 1 of Representations above) stating that the scale and density of the development is unsuitable for the surrounding area are noted. It is also noted that the reporter, in considering the appeal for decision P091403 stated that the site was capable of accommodating two houses, and that the houses would fit in well with the surrounding area.

The proposed house in this instance is of a similar style to that subject to the previous appeal, though it is of a differing design. Whilst it would be large, the plot size is only just sufficient to accommodate a dwelling of this size without harm to the appearance of the surrounding area. In relation to the spacing between the proposed house and that of the consented dwelling, the relationship of the dwelling to its boundaries is a mirror of that consented under P140940 to the south. When compared to the other dwellings in the surrounding area, the space between the two houses would be smaller than that of the average, but taking account of the varying plot densities on the western side of Baillieswells Road (such as 7A Baillieswells Road), as well as those within the wider Bieldside area, the proposed dwelling is considered acceptable in this respect.

Enlargements to the proposed dwelling, as well as the erection of outbuildings could result in over development of the site, as pointed out in one of the representations received (Point 1(d)). An appropriate condition could overcome this issue however.

The material finishes of the dwelling would be suitable for their location, in keeping with the surrounding area, which consist generally of light coloured

rendered walls with darker coloured roofs.

One representation made comment that the proposed dwelling would be out of keeping with the established building line of the surrounding area (point 1(c)). It is considered that the western side of Baillieswells Road does not have a specifically defined building line, though it is broadly in line with the pattern of development on this side of the road and follows that of the house consented to the south under P140940. As such it is considered that the dwelling is designed at a level appropriate for its context and would have a neutral impact on the character of the locality, in accordance with the requirements of policy D1.

In relation to the siting of the dwelling, policy H1 states that all new residential development involving the redevelopment of residential curtilages should comply with the requirements of the Council's Supplementary Guidance on the Subdivision and Redevelopment of Residential Curtilages (SGRC). Relating to the pattern of development, the SG states that any new dwelling should respect the established pattern of development in the surrounding area, have a frontage to the public and, where dwellings are to be three or more storeys in height should have garden lengths of at least 11 metres. As for the layout, the house would front on to the road and has an enclosed rear garden length varying between 16 and 18 metres (excluding the rear wing of the house).

In addition, the footprint of new dwellings should occupy no more than a third of the total site area as a general rule. But should the pattern of development in the surrounding area generally have a site coverage greater or less than this, then this figure would be applicable rather than 33%. 24% of the site would be occupied by the dwelling in this instance, and the plot size proposed is comparable to that of the dwellings to the south west (Baillieswells Drive), and slightly larger than those on Baillieswells Road where 20 to 30% (approximately) of the site area is built upon, though there are a few properties with densities less than this. As for the layout, the house would front on to the road, with sufficient enclosed garden space to the rear.

Amenity

The SGRC also contains criteria for new dwellings to be assessed against in relation to the impact of the development on the amenity of neighbouring dwellings in respect of privacy, daylight and sunlight. In relation to privacy, a number of the representations made reference to the loss of privacy of neighbouring dwellings (outlined in Section 2 of Representations). The separation distance between the proposed house and 4 Baillieswells Drive are greater than the recommended 18 metres, and at approximately 27 metres, the distance between the windows of the upper floors of the proposed house and 4 Baillieswells Drive are considered to be sufficient.

As stated above, the loss of privacy of the rear garden of 4 Baillieswells Drive formed one of the reasons of refusal of the previous application and dismissed appeal for the site. The stepped arrangement of the proposed house is considered to prevent the overlooking of the rear garden in comparison to the

house previously proposed. It is considered there is sufficient separation between the rear windows of the proposed house and the garden ground of 4 Baillieswells Drive.

Relating to the impact of the dwelling on the loss of sunlight and daylight, the orientation and siting of the closest house (13 Baillieswells Drive) is such that it would not result in any loss of sunlight/daylight to its occupants, nor would it have any significant over dominance on their amenity. Sufficient separation is provided between the neighbouring dwellings and the proposed dwelling, noting that the dwelling to the south west (4 Baillieswells Road) has been assessed against the Building Research Establishment 25 degree approach in relation to daylight and sunlight, which states that if an obstructing building creates an angle of greater than 25 degrees from the horizontal, measured from the centre of the lowest window, then a more detailed check is required. In this instance the degree is far lower (15.6 degrees).

In relation to the point raised in respect of noise from the house (point 2(g)), the noise from the house would not be out of keeping with an established residential area and it would be unreasonable to refuse an application on this basis.

Servicing

Concerns relating to the impact of the proposals on road safety raised in the objections are noted (section 3 of Representations). It is considered the proposed site access for one dwelling is acceptable, with sufficient parking provided on site. As such, it is considered that the development will not have an adverse impact on the road safety to pedestrians, cyclists and vehicles using Baillieswells Road, including children going to and from school as raised in point 3(c) of the objections. The Council's Roads Projects Team raised no objections to the proposals.

No details of surface water drainage were provided with the application, though the application form indicated SuDS would be utilised for this. The matters raised in section 5 of the representations are noted, though in principle the use of a SuDS system to treat surface water run off is considered acceptable.

Trees

Trees to the north west of the site within the curtilage of 13 Baillieswells Road are protected under a Tree Preservation Order. Policy NE5 of the ALDP states that there is a presumption against development or activities that would result in the loss of trees that contribute to nature conservation, landscape character or local amenity (regardless of any formal protection) and buildings and services should be sited so as to minimise adverse impact on existing and future trees and tree cover.

A number of representations raised concerns about the impact of the development on trees surrounding the site, highlighting the importance of the trees within the landscape of the local area (section 4 of the representations).

The Council's Supplementary Guidance on Trees and Woodlands (SGTW) also contains guidance on tree issues that should be taken into consideration during the development process, whilst the SGRC recognises the importance of trees and their contribution to the landscape setting of urban areas.

Submitted in support of the application, a tree survey recommended that a root barrier membrane which allows/encourages roots to grow parallel to the retaining wall proposed to the north of the proposed house. The retaining wall proposed encroaches on part of the Root Protection Area (RPA) of the large Sitka Spruce within the southern corner of 13 Baillieswells Road, as well as a Lodgepole Pine in the eastern part the same feu.

In this instance, it is considered that the proposed development would impact on the existing trees adjacent to the site boundary due to excavation/works proposed within the RPA. Whilst disturbing/excavating within part of the RPA is acceptable in some instances under BS 5837 2012, taking account of the species of trees and their shallow rooting, it is not considered that a reduction in the RPA is appropriate, with the RPA not taking account of the larger rooting area necessary as a tree grows. It is therefore considered the proposals would result in the premature removal of the two trees described above.

In addition, as a result of the restricted rooting capacity provided for the existing young trees that are adjacent to the site, there may be a requirement for their loss due to the proximity to the proposed dwelling and may result in their premature removal (trees 2 – 5 and the young tree planting as detailed within the tree survey provided with the application).

Taking account of the issues outlined above, it is considered the proposed dwelling would have an adverse impact on locally significant trees that are important to the amenity of the surrounding area, as recognised by the Tree Preservation Order in force within the feu of 13 Baillieswells Road. As such, it is considered that the proposals are contrary to the requirements of policy NE5 – Trees and Woodlands, as well as guidance contained within the SGTW and SGRC.

Matters Raised in Representations

Section 6 of the representations raised concerns regarding statements made within the Supporting Statement provided with the application. The matters stated are a statement by the applicant in support of their application and not necessarily a statement of fact, rather it is their opinion and/or interpretation of policy or the situation and are considered as such. In relation to point 6(c) regarding the discrepancies in measurements, notwithstanding any errors (e.g. units of measurement), measurements from the plans submitted are taken into consideration.

Relating to the establishment of a precedent raised in section 7 of the representations, this point is noted. Taking account of the matters relating to

trees above, whilst acknowledging all application are considered on their individual merits, it is considered the proposals would create an undesirable precedent on this basis.

Section 8 of the representations raised concerns about the approach taken for the submission of applications on the site. The applications have been submitted legitimately and determined in line with planning legislation, and the council have a duty to consider all valid applications. The matter raised in respect of housing targets (Section 9) is not a material consideration, housing targets not forming part of this consideration.

Conclusion

In light of the above considerations relating to the impact of the development on trees surrounding the site, it is recommended the application be refused on this basis. Should members be minded to approve the application, then it is recommended conditions are placed in relation to visibility splays, boundary treatment, obscure glass being placed in the secondary window of bedroom three on the north west elevation, landscaping, details of SuDS provision and refuse/recycling. In addition, a condition removing permitted development rights for extensions, outbuildings and decking is also recommended should the application be approved (as detailed under Design/Siting section above).

RECOMMENDATION

Refuse

REASONS FOR RECOMMENDATION

The siting of the proposed house would result in an adverse impact upon important trees outwith the application site (covered by a Tree Preservation Order) as the works would interfere with the roots of the trees that are important to the landscape setting of the local area. In addition, the proposed house would restrict the growth of younger trees within the Tree Preservation Order, limiting the area available for root growth. As such the proposals are considered to be contrary to the requirements policy NE5 – Trees and Woodlands of the Aberdeen Local Development Plan 2012, as well as guidance contained with the Council's Supplementary Guidance documents "Trees and Woodlands" and "The Sub-division and Redevelopment of Residential Curtilages".

Dr Margaret Bochel

Head of Planning and Sustainable Development.