

# Planning Development Management Committee

33A BURNS ROAD, ABERDEEN

APPLICATION TO BUILD A SINGLE DWELLING  
WITHIN THE BOUNDARY OF THE EXISTING  
PROPERTY.

For: Dr Jennifer Harvey

Application Type : Detailed Planning Permission  
Application Ref. : P141274  
Application Date: 27/08/2014  
Officer: Matthew Easton  
Ward : Hazlehead/Ashley/Queen's Cross(M  
Greig/J Stewart/R Thomson/J Corall)

Advert :  
Advertised on:  
Committee Date: 19 March 2015  
Community Council : No response  
received



**RECOMMENDATION: Refuse**

## **DESCRIPTION**

The application site is the dwellinghouse at 33A Burns Road and its associated garden ground. It is located, alongside separate dwellings at 33 and 33B, between the gardens of properties on Burns Road to the north east and Louisville Avenue to the south west. There is a 45m long private driveway which provides vehicular and pedestrian access from Burns Road to all three homes as well as two single garages.

The plot within which 33A is located is rectangular in shape having an area of approximately 723m<sup>2</sup> and being 41m long and 17.8m wide. The house itself is semi-detached, single storey, has a footprint of 146m<sup>2</sup> and is located at the south east end of the plot. There is a freestanding single garage of some 14m<sup>2</sup> located within the garden which is access from the private driveway.

The surrounding area is residential in character with the plot enclosed on all sides by the gardens of other properties with the exception of where the site is accessed from the shared driveway. The main rear building line of dwellings on Burns Road is approximately 29m to the north east although many have extensions which reduce this distance. Dwellings on Louisville Avenue are a similar distance away to the south west. The plot shares a boundary to the north west with the garden of 65 Burns Road, with the dwelling itself a further 35m away. To the immediate south east is 33 Burns Road, which is the other half other semi-detached arrangement.

Although the site itself is not located within a conservation area, Conservation Area 4 (Great Western Road) is to the north west, the boundary being the garden wall between the site and properties on Burns Road.

## **RELEVANT HISTORY**

None.

## **PROPOSAL**

Detailed planning permission is sought for the sub-division of the curtilage of 33A Burns Road and the erection of a detached dwellinghouse in the new plot.

The garage would be demolished and the northern most section of the existing garden separated to create a new plot with an area of 293m<sup>2</sup> and generally square in shape. All existing boundaries with neighbouring gardens would remain and a new close boarded timber fence, 1.5m-2.2m in height, would be erected between the new plot and 33A. The resultant plot size of 33A would be 430m<sup>2</sup>.

The new house would be located towards the northern end of the plot and would be single storey with a footprint of 93m<sup>2</sup>. The house would be rectangular in shape, being 14m wide and 6.5m long, although there would be a feature bay on

the principal elevation which would extend with length of the house to 7.5m. The roof would be pitched at 40 degrees, would achieve a height of 6m and would feature several roof lights to allow for first floor accommodation. The front elevation would have large areas of glazing whereas the rear would have smaller high level windows.

On the ground floor there would be a lounge, dining room and kitchen in an open plan format, master bedroom with en-suite and dresser, study, vestibule and cloakroom. The first floor would comprise a landing area which overlooks the living area and two further en-suite bedrooms.

No finishing materials are indicated on the plans however it would appear that the walls would be finished in white render, timber cladding and grey roof tiles or slates.

The existing driveway for 33A would be continued into the new plot and provide access to a parking area for two cars.

### **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=141274>. 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 objections have been received. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

### **CONSULTATIONS**

**Roads Development Management** – It is noted that the proposal is to build a property in the garden ground of 33A Burns Road. The property will need to be accessed off Burns Road via the existing driveway between numbers 31 and 35.

The traffic generated by the development will increase driveway use and increase the spread of loose material from the driveway onto the footway and roadway. Driveway guidelines require that loose materials are not used for the first two metres of the driveway surface adjacent to the footway. The driveway is within the Great Western Road conservation area and the preferred material would be granite setts. Repositioning and securing of the large granite blocks at the driveway entrance is also recommended.

The three-bedroomed property requires two off-street parking spaces at this location. The turning head shown within the curtilage of the property appears acceptable.

#### **Environmental Health – No**

**Enterprise, Planning & Infrastructure (Flooding)** – The proposed drainage design should be clarified. The proposal should take into account some sort of SuDS measures in order to reduce runoff (e.g. porous pavement, infiltration measures, attenuation volume).

There are no records of flooding incidents or springs however this can be investigated further if required.

**Community Council** – No response received.

### **REPRESENTATIONS**

Seven letters of objection have been received, all from residents living on Burns Road and Louisville Avenue. In summary, the objections raised relate to the following matters –

1. The proposal would increase the density of housing in the area
2. A suitably sized existing garden should not be split to create two very small gardens.
3. The plot is very small and surrounded by trees.
4. The proposed house would not have a public face to a street
5. The proposal would reduce privacy in neighbouring properties.
6. The proposed house could potentially reduce the afternoon/evening sunlight into the gardens of 27 and 29 Burns Road.
7. The proposed house may not receive adequate levels of daylight.
8. The site is within a conservation area and the proposal would have an adverse impact upon it due to the height and position of the house.
9. Increased use as a result of the new house would result in additional pressure on the shared private lane in terms of wear and tear.
10. The installation of utilities for the new house would cause problems for users of the shared driveway.
11. Vehicles associated with construction would find it difficult to access the site and would cause problems, potentially damaging the lane.
12. Confirmation is sought that any structural damage to the boundary wall of a plot would be rectified by the applicant.
13. There is the potential for flooding at the site due to a reported natural spring in the area.
14. The development is unnecessary, would not promote or enhance the area and is opportunistic.
15. Emergency vehicles would have difficulty in accessing the new house.
16. The owners of the shared lane have not been consulted regarding potential access to the new house.

17. The plans do not accurately show the surrounding properties, specifically the full extent of the garage at 35 Burns Road.
18. The owner of the property has never resided there and therefore has limited understanding or consideration of the impact of the proposal.
19. The proposal, if implemented, would set an undesirable precedent for future applications of a similar nature.

## **PLANNING POLICY**

### **Aberdeen Local Development Plan (2012)**

Policy D1 (Architecture and Placemaking) – To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around buildings, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.

Policy D2 (Design and Amenity) – In order to ensure the provision of appropriate levels of amenity the following principles will be applied:

1. Privacy shall be designed into higher density housing.
2. Residential development shall have a public face to a street and a private face to an enclosed garden or court.
3. All residents shall have access to sitting-out areas. This can be provided by balconies, private gardens, terraces or communal gardens.
4. When it is necessary to accommodate car parking within a private court, the parking must not dominate the space: no more than 50% of any court should be taken up by parking spaces and access roads. This figure is a guideline and the planning authority reserves the right to consider each case on its particular planning merits. Underground or decked parking will be expected in high density schemes.
5. Individual flats or houses within a development shall be designed to make the most of opportunities offered by the site for views and sunlight. Repeated standard units laid out with no regard for location or orientation are not acceptable.
6. Development proposals shall include measures to design out crime and design in safety.
7. External lighting shall take into account residential amenity and minimise light spillage into adjoining areas and the sky.

Policy H1 (Residential Areas) – Within existing 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 over development;

- does not have an unacceptable impact on the character or amenity of the surrounding area;
- does not result in the loss of valuable areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010;
- complies with Supplementary Guidance on Curtilage Splits; and
- complies with Supplementary Guidance on House Extensions.

Policy NE5 (Trees and Woodlands) – Development that will result in the loss of, or damage to, established trees and woodlands that have natural or cultural heritage value or contribute to the character, biodiversity or amenity will be resisted. 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 impacts on existing and future trees and tree cover.

Policy NE6 (Flooding and Drainage) – Development will not be permitted if:

- 1) it would increase the risk of flooding:-
  1. By reducing the ability of the functional flood plain to store and convey water;
  2. Through the discharge of additional surface water; or
  3. By harming flood defences.
- 2) it would be at risk itself from flooding;
- 3) adequate provision is not made for access to water bodies for maintenance; or
- 4) it would result in the construction of new or strengthened flood defences that would have a significantly damaging effect on the natural heritage interests within or adjacent to a watercourse.

Policy T2 (Managing the Transport Impact of Development) – New developments will need to demonstrate that sufficient measures have been taken to minimise the traffic generated. Maximum car parking standards are set out in Supplementary Guidance on Transport and Accessibility and detail the standards that different types of development should provide.

### **Proposed Aberdeen Local Development Plan (2016)**

Policy D1 (Quality Placemaking by Design) – All development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials. Well considered landscaping and a range of transportation opportunities ensuring connectivity are required to be compatible with the scale and character of the developments.

Policy T2 (Managing the Transport Impact of Development) – Commensurate with the scale and anticipated impact, new developments must demonstrate that sufficient measures have been taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.

Policy H1 Residential Areas – Within existing residential areas and within new

residential developments, proposals for new 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 and 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; and
4. complies with Supplementary Guidance.

Policy NE6 Flooding, Drainage and Water Quality – Development will not be permitted if:

1. It would increase the risk of flooding:
  - a) by reducing the ability of the functional flood plain to store and convey water;
  - b) through the discharge of additional surface water; or
  - c) by harming flood defences.
2. It would be at risk itself from flooding;
3. Adequate provision is not made for access to water bodies for maintenance; or
4. It would require the construction of new or strengthened flood defences that would have a significantly damaging effect on the natural heritage interests within or adjacent to a watercourse.

### **Supplementary Guidance**

The Sub-division and Redevelopment of Residential Curtilages SG – Explains the criteria for assessing such developments in terms of privacy, amenity, daylight, sunlight, density, pattern and scale of development.

### **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 application site is located within an area zoned in the Aberdeen Local Development Plan as residential. There is therefore a presumption in favour of such development, provided such applications comply with the other provisions of Policy H1 (Residential Areas) namely they do not constitute over development; do not have an unacceptable impact on the character or amenity of the surrounding area; and comply with the supplementary guidance on The Sub-division and Redevelopment of Residential Curtilages.

### Density and Pattern of Development

When examining the density of development in the surrounding area, there is a variety of plot ratios to be found. Properties on Burns Road typically have a built footprint of 30-40% and those in Louisville Avenue slightly lower in the 15%-30% range, although there are variations. The backland development between the two roads, comprising 33, 33A and 33B Burns Road have ratios of 34%, 20% and 17% respectively. The resultant ratio for the new plot would be 31.7% and would not radically depart from those typically found in the area. Nonetheless, the location and shape of the plot is fundamentally at odds with the established character of the wider area and would be contrary to the supplementary guidance. The manner in which the space is arranged would result in an unsatisfactory development due to the house being less than 1.9m from each of three boundaries. The space between the house and each of these boundaries is essentially left over space and unusable. The result is a small garden largely shaded by trees and dominated by car parking.

The west end of Aberdeen has a layout which typically features streets with a formal building line where buildings have a public face to the street and private face to enclosed garden ground. Normally the rear boundary of gardens meet with the rears of other gardens or sometimes a lane. In the case of the area between Burns Road and Louisville Avenue, whilst the space is predominately open garden ground for homes on each road, there are a number of houses located in-between the two streets, namely 33, 33A, 33B, 65, 71 and 73 Burns Road and 1-6 Burns Gardens. Each of these properties have been present for at least 30 years and are a result of historic anomalies in layouts or the re-use of sites which were in non-residential use. Notwithstanding the historical precedents, the current proposal must be assessed against the current standards for new dwellinghouses and the sub-division of curtilages.

The supplementary guidance states *“that approval of “tandem” or backland development of this sort sets an undesirable precedent for future applications of a similar nature, which, if replicated, could result in the creation of a second building line behind existing dwellings and fundamentally erode the character and residential amenity of such areas. With this in mind, in all suburban areas characterised by formal or semi-formal building line fronting onto a public road and having back gardens which provide private amenity space there will be a general presumption against the construction of new dwellings in rear garden ground behind existing or proposed dwellings in circumstances where the new dwellings do not front onto a public road.* This requirement is reiterated by Policy D2 (Design and Amenity).

This proposal does not offer a public face onto a street but would be almost 80m away from Burns Road, along a private lane and driveway, effectively land-locking it around several gardens. As described in the guidance, this situation is likely to impact on the amenity enjoyed by existing residents, particularly whilst in their gardens. The 6m high gables of the house would be 1.85m away from the north east and south west boundaries, which it is considered would be obtrusive to those within neighbouring gardens and would be uncharacteristic of the area. In this area, residents will expect to be able to enjoy their back garden in a peaceful setting, however this proposal, simply due to its presence, would be

likely to introduce additional activity in an area where at the moment there is none other than that normally associated with a garden.

Concern was raised that the house may impact upon direct sunlight reaching the properties at 27 and 29 Burns Road. However due to the orientation, distance (approximately 45m away) and being only single storey, it is unlikely that any impact would occur.

The proposed dwelling would fail to have a similar level of private garden ground to that which is common in the surrounding context, save for the existing back-land developments. A typical rear garden on Burns Road and Louisville Avenue is 30m long. In contrast the garden of the proposed house is 7.98m long. It would be located at the front of the house and would predominately comprise car parking, which would dominate the area. The left over amenity space would be largely shaded on both the north east and south west sides. Taken together, these aspects fail to provide a satisfactory level of outdoor space for the new house, in contravention of Policy D2 (Design and Amenity) and the supplementary guidance.

### Design

Some recognition has been made of the impact the site would have on neighbouring properties, through the extensive use of roof lights on both elevations and high level windows on the rear ground floor. Whilst the high level windows may be effective at reducing overlooking, the low level at which the roof lights would be at within the ceiling of the first floor is such that anyone within, would have clear views over neighbouring gardens which are a matter of metres away. Whilst in a suburban area a degree of overlooking is to be expected, as already indicated the development would introduce an additional reduction in privacy over and above that which would normally be experienced by someone within their garden in this context.

The 6m height of the house would be by no means unusual for a small house, however in this context it would look particularly out of place and have a detrimental impact on the visual amenity of the area.

### Trees

There are also several trees, both within the site and adjacent gardens which would severely impinge upon the availability of daylight and direct sunlight into the garden and potentially the house itself. There is no indication that it is proposed to remove any trees to accommodate the development, however it is anticipated that this would be the ultimate result due to the very close proximity they would be to the proposed house. Due to their unprotected status, those trees within the plot could be removed without consent should a future occupier wish to do so whereas for trees within neighbouring gardens, consent would be required from the owners. The trees within the gardens between Burns Road and Louisville Avenue contribute to the pleasant character of space and their loss would be to the detriment of the area. The development would therefore fail to

ensure that it would not result in the loss of, or damage to, established trees that contribute to the character and amenity of an area as required by Policy NE5 (Trees and Woodlands) and the supplementary guidance which has a presumption in favour of retaining semi-mature and mature trees either within a site or immediately adjacent to it regardless of whether they are protected.

### Access and Traffic

The proposed access to the site via the shared private lane is considered acceptable. The volume of additional traffic generated by one additional dwelling would in absolute terms be minimal. If necessary the applicant would need to obtain consent from the other owners of the lane to use it for access and maintenance; however that would be a civil matter between the relevant parties. The Council's Roads Projects Team would be satisfied with the access arrangements subject to alterations at the junction with the adopted part of Burns Road. The proposal is therefore considered to be in accordance with Policy T2 (Managing the Transport Impact of Development).

### Drainage

The Flood Prevention Team report that there are no records of flooding incidents in the area or springs however this can be investigated further should the applicant be approved.

### Other Matters Raised in Representations

- Disruption and inconvenience during construction is inevitable and is not a material planning consideration. Similarly, any damage caused to the lane or boundary walls is not a planning consideration but a civil matter between those concerned.
- The intentions of the applicant in terms of whether they would live in the property or sell it on are irrelevant from a planning perspective.
- Concern has been raised that if approved, the proposal would set an undesirable precedent for future proposals, however each site has its own characteristics and would be assessed on its own merits.

### Proposed Aberdeen Local Development Plan (2016)

The Proposed ALDP was approved at the meeting of the Communities, Housing and Infrastructure Committee of 28 October 2014. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to public consultation through the Main Issues Report; and

- the level of objection raised in relation these matters as part of the Main Issues Report; and
- the relevance of these matters to the application under consideration

The foregoing can only be assessed on a case by case basis. In relation to this particular application the relevant policies and supplementary guidance are reiterated in the proposed plan without any substantive changes.

### Summary

In summary, the proposed development is would result in a detrimental impact on the character and visual amenity of the surrounding area, have a negative impact upon existing residents in terms of privacy and enjoyment of their gardens and would fail to provide a suitable level of amenity for the future occupants of the new house. For these reasons and when considered against the Local Development Plan, the proposal fails to comply with Policy D1 (Architecture and Design), Policy D2 (Design and Amenity), the Supplementary Guidance on The Sub-division and Redevelopment of Residential Curtilages SG and consequentially Policy H1 (Residential Areas). Therefore it is recommended that this planning application is refused.

## **RECOMMENDATION**

### **Refuse**

## **REASONS FOR RECOMMENDATION**

1. that the proposed development as a result of the plot location, shape and size is fundamentally at odds with the established character of the wider area and as a result would have a detrimental impact upon the amenity of existing residents in terms of privacy and the general enjoyment of their gardens, contrary to Policy D1 (Architecture and Design), Policy D2 (Design and Amenity) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan (2012) and the Supplementary Guidance on The Sub-division and Redevelopment of Residential Curtilages.
2. that the proposed development as a result of the plot location, shape and size would fail to provide a satisfactory level of amenity for future residents of the new house, specifically in relation to availability of daylight and lack of quality garden ground contrary to Policy D1 (Architecture and Design), Policy D2 (Design and Amenity) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan (2012) and the Supplementary Guidance on The Sub-division and Redevelopment of Residential Curtilages.
3. that the proposed development is likely to require the removal of or cause damage to established trees which contribute to the character of the area, contrary to Policy NE5 (Trees and Woodlands) of the Aberdeen Local

Development Plan and the Supplementary Guidance on The Sub-division  
and Redevelopment of Residential Curtilages.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.