

Planning Development Management Committee

32 ROSEBERY STREET, ABERDEEN

PROPOSED APPLICATION FOR THE CHANGE OF USE OF EXISTING RESIDENTIAL PROPERTY, TO FORM A HOUSE OF MULTIPLE OCCUPANCY TO ACCOMMODATE 6 UNRELATED PERSONS

For: Grant Property

Application Type : Detailed Planning Permission
Application Ref. : P150742
Application Date: 12/05/2015
Officer: Sally Wood
Ward : Midsocket/Rosemount (B Cornie/J Laing/F Forsyth)

Advert : n/a
Advertised on: n/a
Committee Date: 16th July 2015
Community Council : Comments



RECOMMENDATION: Approve subject to conditions

DESCRIPTION

The application site relates to an upper floor flat which occupies the first and second floor within an established residential terrace. The terrace consists of granite built dwellings with slate roof, two storeys in height with attic rooms. Rosebery Street is an established residential area, with a mix of terraced two storey dwellings with attic space, and single storey properties.

To the front of the flat is a small garden beyond which is a public footpath. Rosebery Street operates a parking permit between the hours of 10:00-16:00 Monday to Friday. To the rear of the premises is a garden.

RELEVANT HISTORY

None relevant to the assessment of this application.

PROPOSAL

Planning permission is sought for a change of use from a single residential unit to a house in multiple occupation (HMO), with 6 bedrooms. The plans accompanying the application show that the flat currently has four bedrooms a lounge, dining room, kitchen, a bathroom and store room. The proposal shows six bedrooms, a lounge, kitchen, shower room and a bathroom. Two rooflights are proposed on the front elevation, though it is considered that they would not require planning permission.

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=150742>

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 and an objection from the Community Council. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Development Management – no objections. No parking standard currently exists for HMO, parking assessment usually carried out on merit. Ideally seek 3 car parking spaces; therefore one additional parking space will be required. Note that the HMO could apply for two permits. Notes that the Traffic

Management Department advises that the shortfall of one space would not have any significant impact on parking. Seeks four cycle spaces.

Environmental Health – ‘no comments’

Communities, Housing and Infrastructure (Flooding) - ‘no comments’

Waste and Recycling Services – no objections, comments on the provision required.

Rosemount and Mile-End Community Council – objection, summarised as follows:-

1. Not in-keeping;
2. Over-development;
3. Additional refuse;
4. Noise;
5. Parking;
6. Questions in connection with parking permit allocation;
7. The works are already completed.

REPRESENTATIONS

27 letters of representation have been received objecting to the application. The objections raised relate to the following matters –

1. Lack of car parking;
2. Refuse bins being stored outside neighbouring properties;
3. Rosebery Street is a ‘family street’;
4. The use is not in-keeping;
5. Increased noise/disturbance;
6. Increase in traffic;
7. Increased risk of anti-social behaviour;
8. Tenant turnover leads to concerns;
9. Devaluation;
10. Maintenance of property/garden;
11. How many more (HMO) licences to be granted in the area;
12. Work has already commenced on site;
13. Impact on existing services, e.g. schools, nurseries;
14. Increased fire risk;
15. Set a precedent for further House in Multiple Occupation applications;
16. The House in Multiple Occupation licence has been refused;
17. The application should be refused or limited to three people;
18. Plenty of Houses in Multiple Occupation elsewhere within the city’
19. Depletion of family houses;
20. Profit orientated;
21. Proposal does not comply with statutory guidance for Scottish Local Authorities;
22. Questions raised do not meet Building Warrant standards;
23. The proposal may require multiple overhead telephone lines for internet access.

PLANNING POLICY

National Policy and Guidance

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 H1: Residential Areas: states that within existing residential areas, proposals for non-residential uses will be refused unless: they are considered complementary to residential use; or it can be demonstrated that the use would cause no conflict with, or nuisance to, the enjoyment of existing residential amenity.

Proposed Aberdeen Local Development Plan

Policy H1: Residential Areas: for non-residential uses within existing residential areas the same criteria applies as in the current plan (see above).

Supplementary Guidance

The Council's supplementary guidance "Householder Development Guide" is a relevant material consideration. Page 24-26 of the Householder Development Guide gives specific guidance on how to assess proposals for HMO. Where flats are concerned, planning legislation does not specify any number of residents above which premises will no longer be considered a 'flat' for planning purposes; however, the guidance continues to state it is considered that 6 or more unrelated people living together in a flat would be materially different from family use. It should be noted that planning and HMO licence have different thresholds and should not be confused. Furthermore, the granting of planning permission does not guarantee a successful licence application and vice versa.

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.

Principle of Development and impact on character of the area

Whilst the intensity of the proposed 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 generis*), the nature of the use is nevertheless pseudo-residential in nature. In that respect it is considered there is no conflict with Aberdeen Local Development Plan Policy H1.

Intensive occupation for residential purposes generally increases pressure on shared facilities, such as gardens, car parking and refuse arrangements. Rosebery Street currently operates a parking permit between 10:00-16:00 Monday to Friday. The existing flat has access to two parking permits, and such a use would generate the need for two car parking spaces. The proposed HMO use would also have access to two car parking permits, and whilst there is no specific guidance on car parking for a House in Multiple Occupation, the Roads Development Management Team have advised that three spaces would be required. Whilst no car parking spaces can be provided within the confines of the application site, it is noted that the existing flat would generate in parking terms a requirement of two car parking spaces within the street, as is the case with many of the residential properties. On the basis that the existing use would generate two car parking spaces and the proposed use three spaces, it is the 'balance' of one car parking space that is the shortfall. There are no objections from the Roads Development Management Team, further noting that the Traffic Management Department do not consider that the shortfall of one space would have a significant impact on parking. Therefore it is considered that there are no parking issues as a result of this proposal.

Given the surrounding area is predominantly residential in nature, and contains a large number of flatted properties, the intensity of the proposed use is not considered to be fundamentally incompatible with the character and amenity thereof. As noted above, if the scheme was for five unrelated persons planning permission would not be required. Furthermore, it is noted that the dwelling is located within close proximity to bus stops. On the basis of these considerations it is considered unreasonable to refuse the scheme on lack of car parking, particularly as the Council has no specific car parking standard for this use. In turn, given the above considerations it would be unreasonable to refuse on the grounds of increased traffic, as raised in a number of the letters of representation. The Roads Development Management Team has advised that it seeks four cycle parking spaces; this is to encourage other forms of transport and to provide secure facilities. Cycle storage provision would be secured by Condition and can be accommodated within the garden to the rear, accessed off Hosefield Avenue; the Agent has advised that this is possible.

The potential for direct disturbance from six individuals living in the property via noise nuisance is not considered to be significantly different from the five unrelated residents which could be living in the same property without the need for planning permission. It is therefore unlikely that there would be any significant adverse impact upon the adjoining properties or surrounding area as a result of the proposed change of use. It is also worth noting that if this property was mainstream residential, six or more related people could live at the address without the need for planning permission. Therefore it is considered that the application is not contrary to Policy H1 and would not be contrary to the defining principles of Circular 2/2012 or the Householder Development Guide.

Planning records indicate that only a limited number of HMO's have been granted planning permission (which is required for properties with more than 5 unrelated

occupants) in the area between Raeden Park Road and Argyll Place. A search identifies the following properties:

- P111509 Change of use from maisonette to HMO registered property (4 unrelated persons), 27 Bonnymuir Place.

Whilst there may be a number of HMO properties within the area, as planning is only required if it more than 5 unrelated persons, it is considered that in planning terms there is no 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. On the basis of these considerations it is considered that the proposed use is not incompatible with the adjacent dwellings, and therefore not out of keeping. In conclusion it would be inappropriate to refuse planning permission, particularly as there are no specific planning policies contained within the Local Development Plan. Nevertheless, in considering the HMO licence, the issue of intensification, or rather overprovision, would be considered by the Council.

Planning Circular 2/2012 states that the "The licensing of HMOs seeks to ensure high standards in terms of; the suitability of a property owner (and their agent) to be a HMO owner (or to act for the owner); the suitability of the living accommodation itself; and allows the local authority to consider overprovision. A licensing authority has discretion to set any reasonable conditions it thinks fit. These issues are matters properly dealt with through the HMO licensing regime and are therefore not matters for planning authorities to take into account in the granting of planning permission. A decision on the granting of planning permission must take account only of relevant planning issues, and should make no assumptions about the potential behaviour of tenants."

Therefore, it is clear that the following objections raised are not material considerations to the planning application (*the numbered bullet points relate to the points referred to under 'Representations'*):

7. Increased risk of anti-social behaviour
8. Tenant turnover leads to concerns
10. Maintenance of property/garden
11. How many more licences to be granted in the area
16. The House in Multiple Occupation licence has been refused
17. The application should be refused or limited to three people
18. Plenty of Houses in Multiple Occupation elsewhere within the city'
21. Proposal does not comply with statutory guidance for Scottish Local Authorities

A number of representations made objected on the basis of refuse bins being stored outside neighbouring properties. Given that the planning consideration relates to one additional person living at the property over what is permitted development, it is not considered that the proposal can be refused on this basis. Furthermore, it is noted that no objections to the scheme were made by Waste and Recycling Services.

In addition, the following are not material considerations for the reasons described:

Point 9: Devaluation and, Point 20: Profit orientated

The impact on value of land is not a material planning consideration, nor are profits or a perceived need or lack of need for a development.

Point 12: Work has already commenced on site

The application is for a change of use, and it is understood that the use has not been implemented. In any case planning applications can be considered for retrospective works, which are carried out at the developers.

Point 13: Impact on existing services, e.g. schools, nurseries

The nature of a House in Multiple Occupation is such that the impacts on schools and nurseries are minimal, as they tend to be for more transient people on short term leases. It is therefore considered that there should be no burden placed on these facilities. Indeed, occupation of the property as a family residence would be much more likely to place additional demand on local schools and nurseries. It is noted that the application is for six persons.

Point 14: Increased fire risk.

This is not a material planning consideration, and would be considered by licencing (in terms of fire doors, alarms, etc.) and Building Standards.

Point 15: Set a precedent for further House in Multiple Occupation

Each planning application is determined on its own merits, and therefore no precedent would be set.

Point 19: Depletion of family houses

The Local Development Plan does not have a policy relating to Houses in Multiple Occupation and this matter. Furthermore, the approval of this application would not result in any notable change of the availability of family houses. This is not a material planning consideration, but may be a consideration under the HMO licence application.

Point 22: Questions are raised with regards to whether the proposal complies with Building Standards

This would be assessed under any building warrant application.

Point 23: The proposal may require multiple overhead telephone lines for internet access.

This is not a material planning consideration.

Matters Raised by the Community Council.

Rosemount and Mile-End Community Council have made a number of points in their letter of representation, which have already been covered and assessed within this report.

Proposed Aberdeen Local Development Plan

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 there are no new issues raised.

RECOMMENDATION

Approve, subject to conditions

CONDITIONS

It is recommended that approval is given subject to the following condition:-

(1.) Prior to first occupation of the development hereby approved four cycle spaces shall be provided in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. Thereafter the four cycle spaces shall be retained and made available for such use at all times. – To promote alternative modes of travel.

REASONS FOR RECOMMENDATION

That the use of the premises as an House of Multiple Occupation (HMO) (being quasi-residential in nature) is consistent with the residential character of the surrounding area and would not result in any undue impact on the character and amenity of the property, or those in the locality. There would be a neutral impact on the character and appearance of the surrounding area. The proposal would have no adverse impact on pedestrian or road safety. The proposal is therefore considered to accord with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan, and the relevant content pertaining to HMOs in the Council's adopted Householder Development Guide.

The proposal does not offend the principles of Policy H1 (Residential Areas) of the Proposed Local Development Plan.