

Planning Development Management Committee

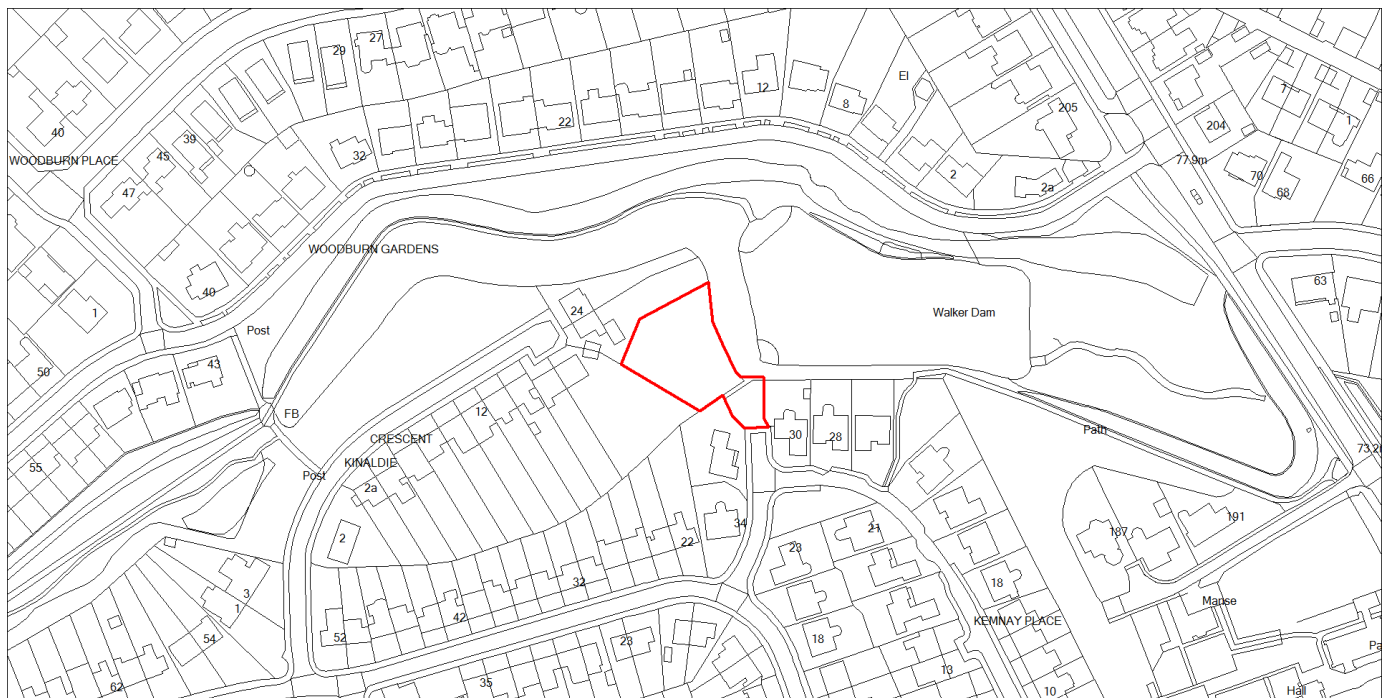
22 KINALDIE CRESCENT, CRAIGIEBUCKLER

SUB-DIVISION OF RESIDENTIAL CURTILAGE
AND ERECTION OF NEW DWELLINGHOUSE
AND ASSOCIATED WORKS

For: Mr & Mrs N Greig

Application Type : Detailed Planning Permission
Application Ref. : P150311
Application Date: 27/02/2015
Officer: Gavin Evans
Ward : Hazlehead/Ashley/Queens Cross(M
Greig/J Stewart/R Thomson/J Corall)

Advert :
Advertised on:
Committee Date: 21/04/2016
Community Council : Comments



RECOMMENDATION: Refuse

DESCRIPTION

The application site, which extends to approximately 1400sqm, lies to the south-west of the Walker Dam and incorporates part of the rear garden to 22 Kinaldie Crescent, along with an area of open space between Nos. 30 and 32 Kemnay Place. These are currently two separate and distinct parcels of land, which would be combined to facilitate the proposed development.

The grounds to the rear of 22 Kinaldie Crescent slopes moderately down towards Walker Dam, with the land immediately to the east of the site characterised by mature trees. The generous plot of No. 22 is largely laid to grass, with evidence of some recent landscape clearance towards its south-eastern corner at the time of an earlier application, detailed below. The eastern boundary, to the adjacent Walker Dam, is enclosed by a wooden stake fencing in a state of collapse.

An area of open space between 30 and 32 Kemnay Place lies to the south-east of 22 Kinaldie Crescent. It falls gently to the north, towards Walker Dam, and is largely laid to grass, with planted borders. Its eastern and western edges are enclosed by standard timber fencing, however its northern edge is defined by post-and-wire fencing and a row of existing trees, predominantly Alder and Rowan.

RELEVANT HISTORY

Residential development comprising 15 homes on the site of the former Walker Dam Primary School was granted Planning Permission in 1999, with the approval of application ref 99/0316. As part of the approved scheme, three areas of open space were laid out. One of those areas of open space, between 30 and 32 Kemnay Place, lies within the current application site and would be used to form a new access point/driveway.

More recently, application P140029, sought permission for the construction of a single detached dwellinghouse to the rear of 22 Kinaldie Crescent. That proposal was due to be referred to the Planning Development Management Committee, but was withdrawn by the applicants prior to inclusion on an agenda.

PROPOSAL

This application proposes the construction of a new 1 ½ storey detached dwellinghouse within a new plot, to be formed via the sub-division of the existing plot at 22 Kinaldie Crescent. Access to the site would be obtained via a new driveway, taken from an existing dead-end/turning head on Kemnay Place and crossing an area of open space between Nos. 30 and 32 Kemnay Place. The new dwelling would be finished with a mix of wetdash render and granite, with timber lined windows and a slated roof.

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=150311>

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 5 representations expressing objection were submitted to the planning authority. Accordingly, the application lies outwith the scope of the Council's Scheme of Delegation.

CONSULTATIONS

Roads Development Management – No objection is stated, however the following points are noted:

- The driveway must be internally drained with no surface water discharging onto the public road;
- Loose material (e.g. stone chippings) must not be used to surface any of the first 2 metres length adjacent to the footway;
- The gradient should not generally exceed 1:20;
- Details of proposed drainage for the site is required;
- Notes that Core Path 60 runs along the east and north of the site boundary and states that no works should impinge on continued use of the core path.

Environmental Health – No observations.

Communities, Housing and Infrastructure (Flooding) - Seek clarification of proposed drainage design. State that any proposal should take into account some sort of Sustainable Urban Drainage Systems (SuDS) measures in order to reduce the surface runoff water flow (e.g. porous pavement, infiltration measures, attenuation volume).

Community Council – The local Craigiebuckler and Seafield Community Council raise the following concerns:

- Loss of green space – both to form driveway and through incorporation of remaining landscaped area as a part of the garden serving the new property;
- Impact on wildlife as a result of traffic, lighting and general garden use;
- Concern that the site would not be appropriately enclosed from the Walker Dam.

REPRESENTATIONS

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

- Impact on Green Space Network and Local Nature Conservation Site – resultant impact on amenity and conflict with policies NE1 (Green Space Network), NE5 (Trees and Woodlands), D6 (Landscape) and NE8 (Natural Heritage);
- Highlights that the site is well-used for recreation and education purposes;
- New dwelling would be intrusive on character and attractiveness of the dam;
- Precedent set for the loss of amenity spaces to facilitate development;
- Conflict with condition from an earlier consent (ref 99/0316) relating to the retention of open space areas;
- Earlier refusal of permission to build in gardens of 20/22 Kinaldie Crescent;
- Disruption to residents during construction;
- Potential for flooding – run-off could damage the environment within the LNCS;
- Note that residents currently maintain this area of open space;
- Potential for damage to existing lock-block surfaces from heavy construction vehicles;
- Dwelling is uncharacteristically large and access arrangements are not representative of surrounding area;
- Wall is too large and would be intrusive when seen from Walker Dam;
- Part of the building would be for commercial purposes;
- Impact from new lighting on wildlife value of the LNCS;
- Concern regarding potential impact on bats;
- Loss of privacy to 20 Kinaldie Crescent from upper floor windows;
- Contradiction within submitted information – Planning Statement refers to lock block surfacing; Site layout plan refers to gravel driveway;
- Lack of information on necessary excavations and changes to ground levels. Also several trees are not included within the scope of the submitted tree survey.
- Change of use to from open space to garden ground has not been obtained.

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy (SPP)

Aberdeen City and Shire Strategic Development Plan (SDP)

Paragraph 3.9 recognises Aberdeen City as a strategic growth area and states a preference for development on brownfield sites.

Paragraph 3.20 emphasises the need for improvement of environmental quality and high quality design.

Aberdeen Local Development Plan (ALDP)

Policy T2: Managing the Transport Impact of Development

Policy D1: Architecture and Placemaking
Policy D2: Design and Amenity
Policy D6: Landscape
Policy H1: Residential Areas
Policy H3: Density
Policy NE1: Green Space Network
Policy NE5: Trees and Woodlands
Policy NE8: Natural Heritage
Policy R7: Low and Zero Carbon Buildings

Supplementary Guidance

The Subdivision and Redevelopment of Residential Curtilages
Transport and Accessibility
Low and Zero Carbon Buildings
Trees and Woodlands

Proposed Aberdeen Local Development Plan

Policy D1 – Quality Placemaking by Design
Policy T2 – Managing the Transport Impact of Development
Policy H1 – Residential Areas
Policy H3 - Density
Policy R6 - Waste Management Requirements for New Development
Policy R7 - Low and Zero Carbon Buildings, and Water Efficiency

Other Relevant Material Considerations

The matters raised in representations are material to the assessment of this application, so far as they relate to legitimate planning considerations.

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 & Zoning

The application lies within a predominantly residential area, which has been zoned as such in the Local Development Plan, with policy H1 applicable. Policy H1 allows for residential development, provided a series of criteria can be satisfied. There is significant overlap between these criteria and the principles set out in the 'Sub-division and Redevelopment of Residential Curtilages' Supplementary Guidance, so it is appropriate for later sections of this report to consider these matters in parallel.

Encroachment on Open Space

In order to access the main body of the site, to the rear of Kinaldie Crescent, the proposal involves a new access being formed off Kemnay Place, on an area of Open Space situated between Nos. 30 and 32. That area of Open Space is

understood to have been laid out as part of the Stewart Milne development on the site of the former Walker Dam Primary School site. In considering the proposal's relationship with policy H1, it is necessary to consider whether the existing area of Open Space is 'valuable and valued', and indeed to what extent it would be lost or eroded as a result of the development.

It is acknowledged that this area of Open Space, in the context of the three laid out as part of the Stewart Milne development, makes the least significant contribution to the character and amenity of the area. This view is reached on the basis that this area of open space is periphally sited, with no through route, whereas one of the others provides the pedestrian path link from Kemnay Place to the Core Path route around the Walker Dam, and the other is prominently sited at the heart of the development, overlooked by adjacent properties, and as a result its soft landscaping could be considered to make a greater contribution to the character of the area. It is noted also that the area of Open Space affected by the development proposal is less than half the size of the other two, at approximately 200sqm compared to 440sqm and 590sqm respectively.

These are relevant factors, however it does not follow that the area of Open Space in question is not itself of value. This smaller area of soft landscaping, which incorporates a row of Alder and Rowan trees along its northern edge, provides a pleasant green backdrop on entry to Kemnay Place via Kildrummy Road, contributing positively to the character and amenity of the area. Whilst its scope for active enjoyment is agruably less than the other areas of open space within the development, it still serves a valuable purpose in providing an area of soft landscaping. Taking these points into account, it is concluded that the existing area of open space, notwithstanding its limited size, is 'valuable' for the purposes of assessment against policy H1. Consideration of whether this area is valued by the local community is difficult, however it is notable that many of the representations received make reference to the loss of this area of open space. On that basis, it appears that this area is very much valued by people in the area. These points highlight a material conflict with policy H1 (Residential Areas) of the ALDP.

Due to its encroachment onto an existing area of open space, which is of some local landscape value, the proposal fails to accord also with policy D6 (Landscape) of the ALDP.

Roads & access

As noted in the earlier description of the proposal, access to the site would be obtained via a new driveway being laid out from Kemnay Place to the main body of the site, to the rear of 22 Kinaldie Crescent. Provided any such driveway is of an appropriate gradient and is suitably surfaced and drained, the Council's Roads Development Management Team has no objection to the means of access proposed.

Density, Pattern and Scale of Development

The residential plots at Nos. 20 and 22 Kinaldie Crescent are among the largest in the local area. This proposal would result in the sub-division of the existing plot

at No. 22, however the retained plot would still compare favourably (at 785sqm) to many of those in the surrounding area – as a comparison, Nos. 18 and 24 Kinaldie Crescent measure circa 570 and 520 sqm respectively, and 32 Kemnay Place is estimated at circa 650sqm. So far as plot size is concerned, it is considered that the density of development is broadly consistent with that seen in the surrounding area.

Over and above simple plot size, proposals must demonstrate due regard for any established pattern of development in the surrounding area. The site is located in an area characterised by dwellings arranged with relatively formal building lines, fronting onto a public road and benefiting from private garden grounds to the rear. The Council's adopted Supplementary Guidance explicitly states that *"in these areas the construction of dwellings in the rear gardens of existing dwellings, or the redevelopment of a site that results in dwellings that do not front onto a public road, constitutes a form of development that is alien to the established density, character and pattern of development"*. This guidance further notes that this form of development can also erode the privacy of private amenity space available to existing residents. It concludes by stating that, *"in all suburban areas characterised by a formal or semi-formal building line fronting onto a public road and having back gardens which provide private amenity space, there will be a 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"*.

Whilst the house itself would not present a strong frontage onto Kemnay Place, neither would it give the impression of 'backland' development, where a second building line is formed via the construction of dwellings to the rear of an existing building line. The site would benefit from its own street frontage, albeit with the house located some distance back from the road via a driveway. It is noted also that there is an absence of comparably sized plots which could be sub-divided in a similar manner, and there is no scope for a second building line to be formed as a result of this proposal.

The absence of any formal frontage to the public road represents an area of conflict with the stated terms of the Council's adopted Supplementary Guidance, which explicitly sets out a presumption against this type of development, and therefore also demonstrates inconsistency with policy H1 (Residential Areas) of the ALDP, which required compliance with this Supplementary Guidance document. Nevertheless, it is not considered that this somewhat uncharacteristic arrangement would be to the detriment of residential amenity or of the character of this area generally, notwithstanding the impact resulting from the driveway's encroachment on the existing open space, noted above. Similarly, the density of the proposed development, with regard to building footprint and plot coverage, is appropriate in this setting, subject to consideration of the impacts arising from the proposal. In this regard, there is considered to be no material conflict with policy H3 (Density).

Privacy, Amenity, Daylight, Sunlight

It is considered that residents of the proposed new dwelling would be afforded adequate privacy, that the new house would present an appropriate frontage to the street, and that a private face would open onto an area of private garden ground, as required by policy D2 (Design and Amenity) of the ALDP. The arrangement of internal floor plans is such that the windows of habitable rooms at upper level are generally directed away from adjoining properties or otherwise benefit from a degree of screening which avoids undue overlooking or loss of privacy.

Design & Materials

As noted previously, the siting of the proposed dwelling is not entirely consistent with existing properties on Kemnay Place, in that it would be set back from the street, however this serves to limit any impact on the surrounding streetscape, and is not considered to be inappropriate in terms of its relationships with neighbouring dwellings. The scale, height and general form of the 1 ½ storey detached dwelling are considered to be appropriate for its context, as are the proposed materials. Its orientation is such that the building would address Kemnay Place, with its L-shaped form creating an obvious 'front', whilst its rear elevation would benefit from views towards the adjacent Walker Dam. Taking these matters into account, it is considered that the proposed dwelling is appropriate as a piece of architecture, however its means of access would result in the erosion of an area of existing open space and its relationship with existing trees, which will be addressed in detail in the following section of this report, fails to either demonstrate due regard for its setting or make a positive contribution to its setting. In this respect, the proposal is not considered to accord with the provisions of policy D1 (Architecture and Placemaking) of the ALDP.

Impact on Trees & Landscape

This proposal's relationship to existing trees and green spaces is central to this assessment. Whilst the dwelling itself would lie outwith identified Root Protection Areas (RPAs), the formation of a new driveway would involve the direct removal of 4 trees and encroachment within the RPAs of several more, within the Walker Dam, the existing open space on Kemnay Place and those within the garden of 32 Kemnay Place. It is acknowledged that the degree of encroachment is relatively modest relative to the full area of root systems, and also that there has been a degree of impact recently as a result of another existing tree being uprooted, however that does not justify further encroachment and best practice in relation to trees indicates that buildings works should be kept outwith RPAs unless there is an overriding justification otherwise. In this instance there is no obvious wider public benefit which would warrant setting aside the likely adverse impact on existing trees. It is recognised that a 'no-dig' construction method is proposed in order to minimise impact arising from excavations, however it has been noted that a degree of infilling would be necessary due to the uneven site levels, which would itself serve to adversely affect root systems. It is noted also that the trees in question form part of the Walker Dam Local Nature Conservation Site (LNCS), which is a popular recreational green space, and therefore there is a public interest in their safeguarding and retention.

In addition to the removal of trees and direct impact resulting from encroachment within RPAs, the proximity of the proposed dwelling relative to large mature trees is of concern. The Council's relevant 'Trees and Woodlands' supplementary guidance highlights that large old/veteran trees are less resilient to the likely impacts of construction activity within close proximity to them, and are therefore more likely to die or become unsafe. It also states that new developments must 'include measures to ensure the long term retention of existing trees' and also that 'consideration should also take into account the final height and spread of new tree planting and how this may impact on new built structures'. Whilst this latter statement mentions new planting, it is reasonable to apply the same principle to ensuring that the siting of new buildings does not prejudice long-term retention of established existing trees, and in this instance it is considered that the proposed dwelling would not be sufficiently separated from large existing trees. This proximity has, in similar circumstances, led to a situation where homeowners are concerned about potential for damage from falling trees or branches, and the Council may be unable to reasonably resist requests for their removal. On this basis, the precautionary principle should apply to the siting of new structures, in order that the scope for conflict between buildings and retained mature trees is avoided where practicable.

Cumulatively, it is considered that these matters would result in undue damage to established trees that contribute significantly to local landscape character and amenity, both in the immediate and long term. Specifically, the proposal fails to site buildings appropriately to minimise adverse impacts on existing trees, contrary to policy NE5 (Trees and Woodlands) and the associated supplementary guidance. It is noted also that trees within the grounds of 32 Kemnay Place have not been included in the submitted survey, precluding assessment of impact on those specimens.

A small area of land designated as part of the Green Space Network would be encroached upon as a result of the new driveway being formed, however the degree of encroachment is relatively minimal and is not considered to fundamentally destroy or erode the wildlife or landscape value of the Green Space Network. On that basis, no material conflict with policy NE1 (Green Space Network) is identified.

Walker Dam LNCS

The Walker Dam is identified as a Local Nature Conservation Site (LNCS), which is a non-statutory local designation relating to areas of local importance for nature conservation. This is described as 'a charming mixture of landscaped areas and semi-natural habitats', the main feature of which is the large pond with a small burn and areas of wet woodland. It is also recognised as being one of Aberdeen's more accessible areas of open water which, due to its location within a residential area of the City, is 'an important recreational and educational resource'. Earlier sections of this report have addressed the potential impact on existing trees, both as a direct result of the proposed works and the increased likelihood of pressure for their removal in future to the undue proximity of the new dwelling. Those same impacts have potential to adversely affect the value of this

locally designated nature conservation site, therefore there is a degree of conflict with policy NE8 (Natural Heritage).

Low and Zero Carbon Buildings

The Council's supplementary planning guidance 'Low and Zero Carbon Buildings' is a relevant material consideration. No details of the incorporation of Low and Zero Carbon generating technologies have been provided in support of the application, and it will therefore be necessary to attach a condition to any consent in order to obtain such details and to ensure installation of equipment prior to occupation, should members resolve to approve the application.

Matters raised in representations

Matters relating to impact on the existing Green Space Network and LNCS designations are addressed in earlier sections of this report, as are impacts on trees, landscape and natural heritage. The value of the LNCS as a recreational and educational resource is recognised. Comments relating to precedent are noted, however it is a well-established principle of the planning system that all proposals will be assessed on their particular merits.

Comments relating to an earlier grant of consent and the conditions attached to it are noted, however it is highlighted that any subsequent grant of planning permission would serve to supersede the effect of conditions relating to the land in question. Similarly, any earlier refusal to grant planning permission is limited in its materiality, and certainly would not preclude the granting of consent. It remains the planning authority's duty to assess any application against the provisions of the development plan and any other material considerations. Change of use from open space to garden ground generally relates to the incorporation of all or part of an existing amenity space into an existing residential garden. In this instance, the change of use is a component part of this application, which involves the formation of a new domestic dwelling and associated curtilage. Disruption to local residents would generally be for a limited period, and any disturbances would be subject to control under the applicable environmental health legislation.

The potential implications of surface water run-off for the environment within the adjacent LNCS are noted, however if Members were minded to grant planning permission it would be reasonable to attach conditions requiring details of surface water drainage arrangements and details of a site-specific Construction Environment Management Plan, aimed at avoiding or mitigating the environmental impact of the development during the construction phase.

That residents are responsible for the maintenance of the existing open space through their title deeds is noted, however that would not preclude planning permission being granted for any development. Any potential damage to existing road surfaces would be subject to existing Roads legislation which is understood to include provision for necessary cleaning and repair.

The use of part of a domestic dwelling as a home office does not necessarily involve a material change in use, depending on the fact and degree of the

particular case. In this instance a small home office above the garage would not be considered to represent an independent commercial use or a separate planning unit, based on the information provided.

Matters relating to the requirement for a bat survey were also raised by the Community Council, and are addressed in the following section. Matters relating to design have been addressed previously in this report.

It is understood that the proposed driveway would be formed in lock-block, however the proposed no-dig sub surface would include granular fill. The contradiction in submitted information could be readily addressed through use of a condition in the event that members are minded to grant planning permission.

It is noted that trees within the grounds of 32 Kemnay Place have not been included in the submitted survey.

Matters raised by Community Council

Issues relating to encroachment onto an area of existing open space and impact on the adjoining Walker Dam LNCS have been addressed in the body of this report. It is recognised that a Bat Survey was not provided in support of this proposal, however this is accepted as no existing buildings would be removed and those trees to be removed have limited roosting potential when compared to those present in the area, particularly those more mature trees which form part of the LNCS. It should be noted that licensing arrangements relating to protected species remain applicable independently of the planning process.

Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. 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 representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination.

The foregoing can only be assessed on a case by case basis. In relation to this particular application, policies relating to design, residential areas and others of relevance to the proposal have not been subject to fundamental change, however there remain unresolved issues which may lead to further change in applicable policies, with the weight that those policies can be afforded diminished as a result. The site remains allocated within a residential area, where residential

development is supported in principle, and it is not considered that the Proposed Plan raises any material considerations warranting determination other than in accordance with the provisions of the extant Aberdeen Local Development Plan.

Summary

It is concluded that the proposed development involves a number of areas of tension with the applicable policies, most significantly in relation to encroachment on existing green spaces and impact on trees and woodlands. Whilst the level of amenity afforded to residents would be satisfactory, with access to an enclosed private garden of a size consistent with its suburban setting, the erosion of an existing open space, which makes a contribution to local amenity and landscape character, and the impact on existing trees are considered to have in unacceptable cumulative impact. In this regard, it is considered that the proposal fails to demonstrate due regard for its context or make a positive contribution to its setting. For the reasons stated in full below, it is recommended that this application be refused.

RECOMMENDATION

Refuse

REASONS FOR RECOMMENDATION

1. Whilst the general principle of residential development within a residentially zoned area is accepted, and the architectural form of the proposed dwelling is considered acceptable, its inappropriate siting relative to existing trees demonstrates a lack of due regard for context, and results in a situation where the proposed dwelling would not make a positive contribution to its setting, as required by policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan (ALDP).
2. The impact of the proposal on existing trees, both directly in the formation of the new driveway and in the longer term due to the inappropriate proximity of the new dwelling to retained mature trees, is not considered to be in accordance with policy NE5 (Trees and Woodlands) of the ALDP or the associated 'Trees and Woodlands' supplementary guidance.
3. The increased threat posed to mature retained trees has potential to result in adverse impact on the Walker Dam Local Nature Conservation Site (LNCS), and represents an area of tension with policy NE8 (Natural Heritage).
4. The development would result in encroachment onto an existing area of open space which, though of limited size, makes a positive contribution to local landscape character and visual amenity in this residential area. On that basis, it is considered that the proposal demonstrates a significant degree of tension with policies D6 (Landscape) and H1 (Residential Areas) of the ALDP.