

Signed (authorised Officer(s)):

7 KING'S GATE, ABERDEEN

ERECTION OF TREE HOUSE TO REAR OF EXISTING DWELLING (RETROSPECTIVE).

For: Mr Drummond Lawson

Application Type : Detailed Planning Permission

Application Ref. : P151391

Application Date : 09/09/2015

Advert : Section 60/65 - Dev aff LB/CA

Advertised on : 16/09/2015

Officer : Ross McMahon

Creation Date : 3 December 2015

Ward: Hazlehead/Ashley/Queens Cross(M Greig/J Stewart/R Thomson/J Corall)

Community Council: No response received

## **RECOMMENDATION:**

**Refuse**

## **DESCRIPTION**

The application site, located on the south side of King's Gate, extends to 511sq.m and is occupied by a Category 'B' listed traditional two-and-a-half storey semi-detached dwelling house, of slate and granite construction, set within an established residential area. The rear garden is located to the south of the property and sits adjacent to a side lane linking King's Gate with Hamilton Place, to the south. The site slopes down gently from King's Gate to the rear (south) of the site and is demarcated by a c. 1.5m high stone wall to all rear boundaries of the site, in addition to trees and small hedges. The site is located within the Albyn Place/Rubislaw Conservation Area and lies within a Residential Area, as identified in the adopted Aberdeen Local Development Plan 2012.

## **RELEVANT HISTORY**

None.

## **PROPOSAL**

Retrospective planning permission is sought for the erection of an elevated wooden structure, referred to as a 'tree house', and an associated area of decking to the south-east of the site. The overall height of the erected structure

measures approx. 4.8m from ground level, and approx. 2.5m to the timber deck, forming a large timber lined screen which sits on the existing granite boundary wall and measures 4.5m in overall height, with an overall width of 6.7m along the east boundary facing onto the side lane.

The structure is constructed primarily in timber, with stained timber linings/cladding used to form screening to the side lane.

### **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.=151391>

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

### **CONSULTATIONS**

**Roads Development Management** – No observations.

**Environmental Health** – No observations.

**Communities, Housing and Infrastructure (Flooding)** – No observations.

**Community Council** – No comments received.

### **REPRESENTATIONS**

Two letters of representation have been received in connection with the application. The points raised relate to the following matters –

1. The east wall should be stained/treated in its entirety;
2. The proposal is out of character with the area and adversely affects the privacy of adjacent properties;
3. The application would set a precedent for similar types of development.

### **PLANNING POLICY**

#### **National Policy and Guidance**

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#### **Scottish Planning Policy (SPP)**

Paragraph 141 – Listed Buildings: The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting.

Paragraph 143 – Conservation Areas: Proposals for development within conservation areas and proposals out with which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance of the conservation area should be treated as preserving its character or appearance.

## **Scottish Historic Environment Policy (SHEP)**

Development should not adversely affect the special interest and character of Listed Buildings and Conservation Areas.

- **Historic Environment Scotland's 'Managing Change in the Historic Environment – Setting'**

The setting of a historic asset can incorporate a range of factors, not all of which will apply to every case: current landscape or townscape context; visual envelope, incorporating views to, from and across the historic asset or place; key vistas, framed by rows of trees, buildings or natural features that give an asset or place a context, whether intentional or not; the prominence of the historic asset or place in views throughout the surrounding area; character of the surrounding landscape; general and specific views including foregrounds and backdrops; relationships between both built and natural features; aesthetic qualities; other non-visual factors such as historical, artistic, literary, linguistic, or scenic associations, intellectual relationships (e.g. to a theory, plan or design), or sensory factors; a 'Sense of Place', the overall effect formed by the above factors.

## **Aberdeen Local Development Plan**

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### **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 D5 – Built Heritage**

Proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

### **Policy H1 – Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

1. does not constitute overdevelopment;
2. does not have an unacceptable impact on the character or amenity of the surrounding area; and
3. complies with Supplementary Guidance contained in the Householder Development Guide.

### **Supplementary Guidance**

Householder Development Guide

## **Proposed Aberdeen Local Development Plan**

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The following policies substantively reiterate policies in the adopted local development plan as summarised above:

**D1 – Quality Placemaking by Design** (*D1 – Architecture and Placemaking in adopted LDP*);

**D4 – Historic Environment** (*D5 – Built Heritage in adopted LDP*);

**H1 – Residential Areas** (*H1 – Residential Areas in adopted LDP*);

### **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas.

The proposal would result in a nominal increase in site coverage which is considered to be acceptable within the context of the surrounding area. It is therefore not considered that the erected structure constitutes overdevelopment of the site.

However, notwithstanding the above, the development is considered to be contrary to Policy D1 (Architecture & Placemaking), the Council's Supplementary Guidance: Householder Development Guide, and therefore H1 (Residential Areas), D5 (Built Heritage) and therefore SHEP, Historic Environment Scotland's '*Managing Change in the Historic Environment – Setting*' and SPP for the following reasons:

1. The visual impact of the erected structure is considered to have a negative impact on the character of the surrounding area, the Albyn Place/Rubislaw Conservation Area and the setting of the Category 'B' listed dwelling by virtue of its overall height, size, scale and prominence to the side lane, and constitutes a particularly overbearing and alien feature within the streetscape and wider area generally, to the detriment of the character and appearance of the wider Albyn Place/Rubislaw Conservation Area.

2. The overall platform height of the erected tree house offers views into the private rear garden ground and habitable room windows of properties to the west of the development site, contrary to the Council's Supplementary Guidance: Householder Development Guide, and therefore policy H1 (Residential Areas) of the Aberdeen Local Development Plan.

### 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, proposed policies D1 (Quality Placemaking by Design), D4 (Historic Environment) and H1 (Residential Areas) substantively reiterate policies, D1 (Architecture and Placemaking), D5 (Built Heritage) and H1 (Residential Areas) of the adopted Aberdeen Local Development Plan and therefore raise no additional material considerations.

### Matters Raised in Representations

All matters raised in representations in respect of loss of amenity, appearance, impact on the character of the surrounding area, have been addressed in the evaluation section of this report. Full regard has been given to all concerns raised in representations, but neither do they outweigh the policy position as detailed above, nor do they justify refusal of the application.

### Conclusion

To summarise, while the overall footprint of the erected tree house is considered to be acceptable, the development fails to comply with the relevant policies found within the Aberdeen Local Development Plan 2012 in respect of design, size, scale in its location, its impact on the Albyn Place/Rubislaw Conservation Area and the setting of the category 'B' listed building, and additionally, borrows amenity from surrounding properties.

For the above reasons, the fails to comply with the relevant local policies contained within the adopted Aberdeen Local Development Plan 2012 and subsequently SHEP and SPP. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.

## **RECOMMENDATION**

### **Refuse**

#### **REASONS FOR RECOMMENDATION**

The proposal would have a negative impact on the residential amenity of the locality and the Albyn Place/Rubislaw Conservation Area. The proposal fails to comply with the relevant policies of Aberdeen Local Development Plan 2012, namely Policies D1 (Architecture and Placemaking), D5 (Built Heritage), the Council's Supplementary Guidance: Householder Development Guide and therefore H1 (Residential Areas) of the Aberdeen Local Development Plan 2012 by virtue of its overall size, scale and prominence to the street and its impact on the setting of the Category 'B' listed building, as it does not preserve the character and amenity of the Albyn Place/Rubislaw Conservation Area in line with the principles of Historic Scotland's SHEP and the associated Managing Change in the Historic Environment - Setting. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.