



OLD ABERDEEN HERITAGE SOCIETY

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Planning Dept
Aberdeen City Council
Marischal College

11th Oct 2016

Dear Sirs,

66 Tillydrone Avenue, Old Aberdeen Conservation Area

Proposal for change of use from dwelling house to 6 bedroomed HMO,

for replacement roof, for blocking up of part of rear window and the entire rear door

The Society wishes to object strongly to this proposal on the following grounds, on which we shall expand later:-

- ① It would be **detrimental to the residential amenity of neighbouring homes** by virtue of the **intensive occupancy and increased potential for noise disturbance** commonly associated with HMOs, thus creating a clash of lifestyles with the existing neighbourhood.
- ② It would also have **an unacceptable impact** on the **character** of the surrounding area, which is almost exclusively a quiet one of family homes.
- ③ **It would not provide adequate parking** according to Council standards, and so would exacerbate the already serious parking problems in the area.
- ④ It would be **prejudicial to public safety** by not allowing adequate space for parked cars to enter and exit in forward gear, on to what is now an extremely busy road.
- ⑤ There is a real risk of creating a **precedent** for further HMOs in this area of family homes, much to its detriment.
- ⑥ There is already one HMO, only about 50 yards or so away, and to allow another would represent **a change in the character of the area**, away from one characterised by family homes.
- ⑦ It would present **road safety issues** in relation to greatly increased pedestrian use of access lane, for access to back garden, due to blocking up of rear door.
- ⑧ It would present **a serious fire hazard for occupants**.
- ⑨ It would **fail to provide basic residential amenity for the occupants**, by removing access to the back garden.

(1) **Detrimental to Residential Amenity of Neighbouring Homes**

The very nature of HMOs is that intensive occupancy of this kind does have **increased potential for noise disturbance**. Clearly 6 unrelated adults, each, perhaps with their own set of family, friends and visitors, will create a significant increase on the number of comings and goings, gatherings, and, indeed parties, some of which are likely to be late at night, and could attract considerable numbers of people. There have, indeed, been problems at this property in the past, when a slightly smaller HMO (before it reversed back to being a dwelling-house) caused nuisance for neighbours with noisy parties, particularly those held in the garden, which could be into the late evening or night. Clearly this caused problems for parents trying to get children to sleep, etc. It was a relief to local residents, therefore, when this house ceased to function as an HMO, and once more acquired the status of a dwelling-house only.

We wish to support local residents in their plea to the Council not to allow it to become an HMO again. There is a clear potential for a clash of lifestyles here, where the surrounding homes are (all but one) exclusively quiet family homes, many with young children. Clearly, the impact on the family in the adjoining house would be even greater.

In the view of the foregoing, we hold that this application to create a 6 bedroomed HMO **would be contrary to the following policies and guidance:-**

Policy H1 - Residential Areas

- because the proposal would be likely to have “an unacceptable impact on the amenity of the surrounding area.”
- because it would not comply with Supplementary Guidance on House Extensions (see below).

Householder Development Guide

- because (p.24) - “Multiple occupancy can intensify pressure on amenity.”
- because there is clear potential for a “significantly adverse impact upon residential amenity” (p.26). This is borne out by previous experience of the property as a smaller HMO, and by experience of the one HMO in the near vicinity.
- because there would be an over-concentration of HMOs in a small group of family homes, cumulatively resulting in a change in the character of that area (p.26).

(2) **Unacceptable Impact on the Character of the Surrounding Area**

The Old Aberdeen Conservation Character Appraisal makes special mention (p.28) of this group of family homes on Tillydrone Avenue; first the semi-detached and terraced pink and grey granite houses, “of a traditional design with Arts and Crafts influence” (“a small residential development” built by the University to house its staff), and then nos. 66 & 68, which date from 1924, and were built by Major Hay of Seaton Estate.

These granite houses which surround nos. 66 & 68 are mentioned again (p.74) in the SWOT analysis of this “Old Aberdeen Heart” Character area:- they are specifically commended as

“strengths” in terms of character of this part of the Conservation Area:- “the Arts and Crafts influenced Tillydrone Avenue residential properties”.

This is, then, quite clearly a residential area made up of a group of family homes of traditional design, with traditional gardens, and still occupied, almost exclusively, by families, mostly with children. This makes for a distinctive and cohesive community.

The current proposal, we hold, would undermine the settled, residential character of the area, by increasing the proportion of temporary residents in this distinctive community of family homes.

It would also undermine the quiet nature of this small community, in terms of the potential for noise disturbance of all kinds, as discussed earlier, due to the more intensive form of occupancy, by 6 unrelated adults, with all their separate visiting families, friends and visitors, which would be on a much greater scale than that generated by a single family.

With regard to the special cohesive community that characterises this group of Tillydrone houses at present, and the threat to that character from the introduction of a substantial HMO, we would refer to the Scottish Government’s Planning Circular 2/2012 (page 1), which cites among “the range of potential problems associated with high concentrations of HMOs” the problem which arises when there is “a high number of transient residents leading to less community cohesion.”

This in turn makes reference to two Government reports which demonstrate this. One by the Department for Communities and Local Government (a report on HMOs), and a Universities UK report, which express concern about this trend.

Lastly, we would refer again to the Council’s Old Aberdeen Character Appraisal, where it notes as a “Threat” to the character of the area (p.75):-

“Increasing density of HMOs” in this Character Area of Old Aberdeen.

No. 66, Tillydrone Avenue is one of a community of family houses, grouped around and beside a “village green”; these houses share the same character - that of settled family homes in a peaceful environment.

The current proposal for a 6 bedroomed HMO would have a significant and, we hold, unacceptable impact on this character.

It would therefore not comply with the requirements of Policy H1 of the LDP.

(3) Inadequate Parking provided

Council parking standards require 0.5 spaces for each bedroom, and therefore 3 spaces should be provided. The application proposes only 2.

This would exacerbate an already serious problem with inadequate parking provision in the area. It has to be said also, that it is the common experience of residents living in the vicinity of an HMO such as this, that students do, very often bring cars with them, regardless of

whether the landlord discourages, or even forbids this. We understand, also, that any clause in a lease forbidding tenants to bring cars, would be legally unenforceable.

The proposal would therefore, we hold be contrary to:

Policy T2 - which sets out parking standards which would require 3 parking spaces.

(4) Prejudicial to Public Safety

There would be inadequate space for cars to enter and exit in forward gear on to Tillydrone Avenue, now a main District Distributor road associated with the new 3rd Don Crossing. Certainly more than one car parked there could not do this, and we believe that it could be impossible even for one.

This would be contrary to Policy T2 also.

(5) Risk of Setting Precedent

There is a very real risk of a precedent being created for similar developments in areas which are almost exclusively made up only of family homes, and in such close proximity (this one being surrounded by family homes). If the planning authority were to grant permission for this development, we believe that it would make it difficult to refuse future applications, and so open the door for other property developers to buy up family homes, and apply to turn them in to similar HMOs, or even larger ones, to the detriment of settled residential communities such as this, where the balance of a settled residential community could be lost completely.

Concern about precedent is very much a valid reason for refusal, as has been evidenced in decisions by the Scottish Government Reporter in decisions on planning appeals. In particular, the need to avoid setting a precedent was part of the Reporter's reasoning in refusing a recent planning application at 17, University Road, Old Aberdeen (ref. P151150, DPEA ref. PPA-100-2073).

(6) Over-concentration of HMOs in vicinity

As explained, there is already one HMO at the edge of this group of family homes, and there have been problems with noise disturbance there, because of the intensification of use and a clash of lifestyles. Unfortunately, planning permission was not required in that instance, because it was just one bedroom short of the level at which it needed planning consent.

Two HMOs, then, in this small circle of homes would be very much an over-concentration, cumulatively resulting in a change to the character of the area.

This would be contrary to the guidance given in the Householder Development Guide (p.26) with regard to applications for change of use to HMO.

(7) **Road Safety issues relating to lane**

As a result of the complete blocking up of the only door to the back garden, the occupants of the proposed HMO would be unable to gain access to their own back garden from the house, but would be forced to go out the front door on the main pavement of Tillydrone Avenue, down the lane between Nos. 64 and 66, and round the corner to the back gate. (the only actual access to the back garden – the unauthorised removal of the mature hedge to the south, and removal of the fence for building contractors’ vans to gain access does not make that side of the garden an access point)

It should be noted at this point that No. 66 Tillydrone Avenue has been advertised for some time for rent on the Geraghty-Gibb website (though recently termed “not currently available”) as a property with an HMO licence, (which it does not yet have, and may not be granted), and, also that much is made of the claim that it has a “Private Garden al fresco Area”

Prospective occupants, who, given the proximity to Aberdeen University are most likely to be students, would surely take this to suggest that this garden would provide the opportunity to sit outside with friends, have gatherings, parties, barbecues etc. They would take on the rental in the expectation of this.

The reality, however, is that no direct access to the garden would be available, and that in order to use the garden for leisure or gatherings of any kind, the occupants and their visitors would have to make regular, and perhaps constant use of the private side lane.

Laying aside the legal question of whether the owners/occupants of No.66 have any legal right to use this lane as access (and this is questionable), it is quite clear that an increase in pedestrian use of what is essentially a vehicular access to garages for the occupants of Nos 54 to 64, would pose road safety issues.

Such road safety hazards would be especially acute on occasions when the occupants of the proposed HMO held parties/barbecues, etc, when large numbers of young people attending such an event at this property, as well as their hosts, would have to go up and down the lane with food/drink/other party essentials just to get from house to garden or vice versa; not to mention other basics such as access to washing or toilet facilities.

It has to be said, given residents’ experience of similar situations across Old Aberdeen, that these parties can, and do, in fact sometimes spill out on to adjoining lanes, and in this case this is all the more likely, given that people would be going to and fro there anyway, as a matter of necessity.

All the above factors, would, we hold, pose **a significant road safety issue**, with a **potential clash between vehicles and pedestrians on this narrow private lane**.

It is relevant here to take note of the City Council’s Supplementary Guidance on the Redevelopment of Residential Curtilages, which contains some clear planning objectives which are relevant in other similar situations.

We refer to Section 7.1 of that Guidance:-

“It will not normally be acceptable for pedestrian access to be shared with vehicles eg. where pedestrians have to walk on the carriageway of rear lanes or public roads to gain access to the development”

The blocking up of the rear door in the proposed development would bring about exactly such an unacceptable situation, contrary to this Guidance.

(8) **Fire Hazard for Occupants**

At this point it ought to be pointed out that this planning application is retrospective in nature, because the applicants have already, without permission, blocked off the back door to the house, and part of one of the back windows. They have already replaced the rear windows.

If this application were granted permission, there would be **no emergency exit** from the two bedrooms at the rear of the one-storey extension, in the event of a fire starting in the kitchen, as the only way to exit the house by a door would be through that kitchen, and the only other possible exit would be via the bedroom windows, but as these are not of a design for fire exit, there would be no escape route.

Policy D1 of the new Local Development Plan requires that all development proposals must be "safe and pleasant".

The Council's "Spatial Strategy" also requires that new development provides "an attractive and safe environment".

Clearly then, the current application fails to comply with the Council's planning policies, as well as the requirements of the Fire Service, and the HMO licencing regulations.

(9) **Residential Amenity of Occupants**

Removal of direct access to the back garden by blocking up of the only rear door, would, as described earlier, fail to provide a basic residential amenity for the occupants.

We refer to Policy D2 of the Local Development Plan, which states:-

"All residents shall have access to sitting out areas"

This refers to direct access, not access via a main road and lane not in their ownership, to their back garden. This proposal clearly fails to comply with this provision of **Policy D2**.

* * *

At this point, the Society would wish to express concern that not only has the aforementioned work at the rear of the house been carried out without the requisite planning permission, but also that mature hedges at the front, and all along the south boundary of this house and garden, and a mature tree at the south-west corner of the back garden, have been cut down without permission. As this is part of the Old Aberdeen Conservation Area, there should have been an application to the City Council for any such works.

The effect of these draconian measures has been to ruin the setting of both house and garden, and the character and appearance of the surrounding Conservation Area. The back garden is now completely open to the lane, with no hedge or fence, and has been turned into a parking area for contractors' vans and lorries.

The Society would ask that **the City Council require that the applicants reinstate the fence the full length of the south boundary of the property, and also re-plant as hedge similar to that which they have cut down**, such as beech or some other native species, to be advised by the Council's Tree Officer.

We also wish to draw attention to **the unauthorised replacement of the front door** of this house. We wish to object in the strongest terms to this illegal development, and **would request that the Planning Committee require an enforcement order** be served on the applicants to **reinstate the original double door** of this 1920s period house.

Further Material Considerations

To conclude, we should like to look at the planning history of the site which is, of course, a material consideration:-

Although the current proposal is for 3 fewer bedrooms than the one refused by the Council in June 2015 (ref. P150402), many of the points made, and the reasons for refusal still stand:-

- (1) We believe that there would still be "an intensification of use to an unacceptable level whereby there would be an adverse impact on the residential amenity of the area, mainly due to an increased level of noise and movements."
- (2) We hold that there would still be "inadequate provision of car parking spaces required for the size of the proposed development."

Further, the proposal "would not allow cars to enter and exit Tillydrone Avenue in forward gear as required due to the increased traffic levels."

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For all the reasons discussed in this letter, we would urge the City Council to refuse this application.

Yours sincerely,



(Mrs). B. McPetrie
Planning Secretary