

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 15 December 2014. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Crockett, Lawrence, McCaig and Stuart.

The agenda and reports associated with this minute can be found at:-
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MI d=2954&Ver=4>

REVIEWS

6 ALBERT STREET - 140714

1. The Local Review Body of Aberdeen City Council met this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for planning permissions for the extension of an existing office to provide additional office and support accommodation at 6 Albert Street (ref 140714).

Councillor Milne, as Chairperson, gave a brief outline of the business to be undertaken. He indicated that the Local Review Body would be addressed by the Assistant Clerk, Mrs Dunsmuir, as regards the procedure to be followed and also, thereafter, by Mr Gavin Evans, who would be acting as the Planning Adviser to the Body in the case under consideration this day.

The Chairperson stated that although the Planning Adviser was employed by the planning authority he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. He emphasised that the officer would not be asked to express any view on the proposed application.

The Local Review Body was then addressed by the Assistant Clerk as regards the procedure to be followed, at which time reference was made to the procedure note circulated with the papers calling the meeting and to certain more general aspects relating to the procedure.

Mr Evans explained that the application which was the subject of the review was for an extension to the existing office accommodation at 6 Albert Street. Mr Evans explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes. He added that the applicant had asked that the LRB request further written submissions to be made and a further hearing session organised.

Mr Evans explained that the application related to the extension to an existing office at 6 Albert Street. The site was located at the west end of Union Street, and was a Category B listed building, while also being designated as a group Category A listing with other properties within Albert Street. The site also sat within the Albyn Place /

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Rubislaw Conservation Area. The building consisted of granite walls and a natural slate roof, and was single storey in height with both attic and basement levels. The building fronted onto Albert Street, and its rear elevation could be seen from Albert Walk, a lane to the rear of the site. Mr Evans explained that planning permission was now sought for an extension to the rear of the building, consisting of accommodation over three levels. At its widest point, the extension would measure approximately 5x6 metres at basement level. The ground floor was to be linked with a glazed corridor over two floors, measuring 2.5m long by 2.1 m wide. The main extension would be 6.6m wide by 14.9m long (at the ground floor level), while at first floor level there was to be an office extension projecting from the link extension which would measure 5.55m long by 4.575m wide. A roof terrace was also proposed above the ground floor extension which would include walling around the perimeter at a height of 1.1m. It was also proposed that the remainder of the rear wall would be demolished to make space for an additional car within the rear feu. The report noted that this alteration would require planning permission as well as listed building consent.

In relation to documents which the members of the Body should consider, Mr Evans outlined that all the following documents were accessible via web links, and available as set out in the papers:-

Development Plan – Aberdeen Local Development Plan (2012); D1 (Architecture and Placemaking) – to ensure that high standards of design were achieved through a number of considerations, including context, to ensure that the setting of the proposed development and its design were acceptable; D5 (Built Heritage) – that proposals affecting listed buildings would only be permitted if they complied with Scottish Planning Policy; and BI3 (West End Offices) – within the area, applications for change of use for office purposes would be given favourable consideration.

Also of relevancy was Historic Scotland: Managing Change in the Historic Environment – Extensions; Roofs; Setting; and Mr Evans advised that the Interim Supplementary Guidance: Conservation Area Character Appraisal and Management Plan – including the Conservation Area Character Appraisal: Albyn Place and Rubislaw July 2013 was also a material planning consideration. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) required that where, in making any determination under the planning acts, regard was to be had to the provisions of the development plan and that determination should be made in accordance with the plan, so far as material to the application, unless material considerations indicated 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.

In relation to consultations, Mr Evans explained that no consultees had raised any objections and one letter of objection had been received which stated that no other extensions on Albert Street were taller than single storey in height; the proposed cladding was not in keeping with the stonework of the listed building; the imposing nature of the proposal; and the adverse impact on daylight and privacy.

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Mr Evans further explained that it was also important to point out that within the Statement of Reasons, submitted with the notice of review, the applicant made a business case for the expansion of the property; and stated that they did not consider there would be an adverse impact on the terrace as a whole, nor on the listed building; that the proposal protected the character and appearance of the building; that they disagreed with the planning officer's assessment that the design of the extension was not of a high quality; that the Interim Guidance on conservation areas did not preclude the erection of extensions greater than one storey; that they did not consider there to be an adverse impact in terms of amenity or loss of privacy; and also set out why they felt their proposal complied with the planning policies outlined in the report of handling.

Mr Evans advised that the stated reason for refusal of planning permission was as follows:

The proposed rear extension due to its scale and mass is contrary to the Interim Supplementary Guidance Conservation Area Character Appraisals and Management Plan, July 2013, which is a material consideration for extensions within Conservation Areas, and Scottish Planning Policy, Scottish Historic Environment Policy, and Local Development Plan Policies D1 (Placemaking and Architecture) and D5 (Built Heritage), and Managing Change: Extensions (Historic Scotland). In particular, the extension is overly long, wide and high, and obscures many of the features of the building, which is Category B listed, including dormer window, windows, and the eaves. Due to the design of the rear extension, being bulky, it would appear as an alien feature, particularly at first floor level within the terrace obscuring the eaves which is a unifying feature of the terrace and the traditional dormer window. The proposal would not preserve the setting of the listed building nor would it preserve the character of the Conservation Area from within public areas of which it would be visible.

The proposed demolition of the boundary wall to accommodate additional car parking is considered unacceptable. The wall, which runs parallel with Albert Walk and part way into the feu, contributes to the character of the Conservation Area and defines the historical feu. The deterioration of back lanes and removal of boundary walls would have an adverse impact on the setting of the listed building and would not preserve or enhance the character of the Conservation Area, contrary to the Interim Supplementary Guidance Conservation Area Character Appraisals and Management Plan, July 2013, Scottish Planning Policy, Scottish Historic Environment Policy, Local Development Plan Policy D5 (Built Heritage), and Managing Change: Setting (Historic Scotland).

The proposal, if approved, would set an undesirable precedent for similar developments in the Albyn Place/ Rubislaw Conservation Area that would adversely affect and undermine the special character of the area as a result of the impact on the rear lane and rear feus, and on the terrace of listed buildings.

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The Local Review Body then asked a number of questions of Mr Evans.

At this point, the Local Review Body considered whether they had sufficient information before them to proceed to determine the review.

The Local Review Body thereupon agreed that the review under consideration should be determined without further procedure. The members of the Local Review Body therefore agreed that neither a hearing sessions nor further written representations were required, as members felt they had enough information before them.

Councillor McCaig noted that there was clear guidance in terms of the supplementary and conservation guidance which set out what was acceptable, and added that the proposal was larger than what was suggested in the guidance. He also felt that there would be an adverse impact on the conservation area. Councillor McCaig added that in his opinion, there had not been any factors set out in the supporting statement which outweighed the application of the planning policies. He felt that it was not an exceptional design and therefore agreed with the decision of the appointed officer.

Councillor Stuart added that the percentage of the site taken up by the proposed extension was well above what would be considered acceptable and felt that the extension would not improve Albert Walk or Albert Street.

Councillor Crockett stated that while he would usually be sympathetic to an economic development argument in terms of planning applications, in this case he agreed that the proposal was excessive for the site and would be an alien feature on the existing building. Councillor Lawrence agreed, stating that the mass of the proposal would destroy the amenity of the area.

The Chairperson agreed with the comments made, particularly in relation to the size and massing of the proposal, and added that he would not want to see the loss of windows at the rear of the property. Members therefore unanimously upheld the decision of the appointed office to refuse the application.

In coming to their decision, the Local Review Body had regard to the provisions of the Development Plan as required by Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) which required that where, in making any determination under the planning acts, regard was to be had to the provisions of the development plan and that determination should be made in accordance with the plan, so far as material to the application, unless material considerations indicated otherwise.

More specifically, the reasons in which the Local Review Body based this decision were as follows:-

The proposed rear extension due to its scale and mass is contrary to the Interim Supplementary Guidance Conservation Area Character Appraisals and Management Plan, July 2013, which is a material consideration for extensions within Conservation Areas, and Scottish Planning Policy, Scottish Historic

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Environment Policy, and Local Development Plan Policies D1 (Placemaking and Architecture) and D5 (Built Heritage), and Managing Change: Extensions (Historic Scotland). In particular, the extension is overly long, wide and high, and obscures many of the features of the building, which is Category B listed, including dormer window, windows, and the eaves. Due to the design of the rear extension, being bulky, it would appear as an alien feature, particularly at first floor level within the terrace obscuring the eaves which is a unifying feature of the terrace and the traditional dormer window. The proposal would not preserve the setting of the listed building nor would it preserve the character of the Conservation Area from within public areas of which it would be visible.

The proposed demolition of the boundary wall to accommodate additional car parking is considered unacceptable. The wall, which runs parallel with Albert Walk and part way into the feu, contributes to the character of the Conservation Area and defines the historical feu. The deterioration of back lanes and removal of boundary walls would have an adverse impact on the setting of the listed building and would not preserve or enhance the character of the Conservation Area, contrary to the Interim Supplementary Guidance Conservation Area Character Appraisals and Management Plan, July 2013, Scottish Planning Policy, Scottish Historic Environment Policy, Local Development Plan Policy D5 (Built Heritage), and Managing Change: Setting (Historic Scotland).

The proposal, if approved, would set an undesirable precedent for similar developments in the Albyn Place/ Rubislaw Conservation Area that would adversely affect and undermine the special character of the area as a result of the impact on the rear lane and rear feus, and on the terrace of listed buildings.

BAADS FARM, PETERCULTER - 141149

2. The Local Review Body then considered the second request for a review. The Chairperson advised that the LRB would be addressed by Ms Lucy Greene and reminded members that Ms Greene had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. Ms Greene would not be asked to express any view on the proposed application.

Ms Greene explained that the application which was the subject of the review was for the removal of Condition 1 (Control of Occupancy) from Planning Permission P120873 in relation to Baads Farm, Peterculter. Ms Greene advised that she had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes.

She explained that the application related to a site located in the countryside some 3.5km to the north west of Peterculter. The site comprised unused agricultural land and was located to the east of Hillcrest Courtyard. Access to the site was via a 350m long

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single track private road which served seven houses and an agricultural shed. Ms Greene advised that an application for planning permission (140187) was refused under delegated powers in March 2014 for the removal of Condition 1 from planning permission 120873, and noted that the current application (141149) related to the same proposal, but included further justification from the applicant's solicitor and chartered surveyor. Ms Greene explained that planning permission (110648) was approved by the Planning Committee against officer recommendation in October 2011 for the erection of a residential dwelling, garage and associated stud farm. Conditions had been applied to the permission, namely:- restricting the occupancy of the house to a person employed full time in the stud farm business and the dependents, widow or widower of such a person; conditioning the phasing of the development to ensure that the stables and associated infrastructure were constructed and available for use prior to the commencement of the house and garage; the restriction of the hours of construction; the requirement for the submission of schemes of all external lighting and drainage/sewage facilities; the submission of samples of all external finishing materials and the provision of landscaping and tree planting on the site. Ms Greene explained that the construction of the stud farm had been the main reason behind the Planning Committee approving the application, noting that the proposed house was only considered to be acceptable by the Committee due to the requirement for employee accommodation relating to the stud farm.

Ms Greene explained that there had been an objection to the proposal from Culter Community Council which stated that the proposal would be contrary to the Green Belt policies within Scottish Planning Policy (SPP), as well as Policy NE2 (Green Belt) of the Aberdeen Local Development Plan. The letter also raised concerns about the use of sections of SPP which were aimed at rural areas outside of Green Belts, as well as the proposal being reliant on advice from the Chief Planner which was aimed primarily at developments located outwith the Green Belt. Ms Greene advised that four letters of objection had also been received, raising concerns about the removal of the condition; noting that condition 2 of the planning consent had required that the stud farm be brought into use before any construction of a dwellinghouse or garage, and noting that there appeared to be no progress in this regard; noting that the proposal would set an undesirable precedent for future development; highlighting concerns in relation to the increase in traffic as a result of the development; stating that the materials of the proposed dwellinghouse would be out of keeping with those in the surrounding area; raising concerns in relation to drainage; and stating that the development would have a negative impact on the surrounding landscape.

In relation to documents which the members of the Local Review Body should consider, Ms Greene outlined that all of the following documents were accessible via web links and available as set out in the papers:-

Scottish Planning Policy, paragraphs 49 and 51 in relation to green belt; the Aberdeen City and Shire Structure Plan which provided a spatial strategy for development; the Aberdeen Local Development Plan Policy NE2 (Green Belt) – that no development would be permitted in the green belt for purposes other than those essential for

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agriculture, woodland and forestry; recreational uses compatible with an agricultural or natural setting; mineral extraction; or restoration or landscape renewal.

A number of exceptions applied in relation to NE2, and proposals for development associated with existing activities in the green belt would be permitted, but only if all of the following criteria were met:-

- The development was within the boundary of the existing activity
- The development was small-scale
- The intensity of activity was not significantly increased
- Any proposed built construction was ancillary to what existed

Also of relevancy was the letter from the Chief Planner of November 2011 in relation to Occupancy Restrictions and Rural Housing which clarified the Scottish Government's view on the use of conditions or planning obligations to restrict occupancy of new rural housing. The letter stated that the Government believed that occupancy restrictions were rarely appropriate and so should generally be avoided, but stated that in areas (including Green Belts) where there was a danger of suburbanisation of the countryside or an unsustainable growth in long distance car-based commuting, there was a sound case for a more restrictive approach.

Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) required the planning authority in determining the application only to consider the question of condition(s) subject to which the previous planning permission should be granted. The planning authority had the option to approve the permission subject to new or amended conditions, or to approve planning permission unconditionally. Alternatively, the planning authority could refuse the application, which would result in the conditions on the original application remaining.

Ms Greene explained that the planning officer had considered that Condition 1 met the six tests set out in Circular 4/1998 – namely, that conditions should only be imposed where they were necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise and reasonable in all other respects. The planning officer had considered that Condition 1 met the test of necessity as it was required to ensure compliance with the Development Plan. Condition 1 was considered to be relevant to planning, given that it was required to control the use of the land; was relevant to the development permitted; was enforceable; precise and was considered to be reasonable in all other respects.

Ms Greene further explained that it was important to point out that within the Statement of Reasons, submitted with the notice of review, the applicant had submitted letters from Gavin Bain & Co and Shepherd which advised that the condition severely restricted the potential occupation of the property if it were to be constructed, and that mortgage lenders were reluctant to lend on land or property which was effectively 'tied'. Within the supporting statement from Suller and Clark, it was stated that there had been a material alteration in the circumstances in that the applicants had found it impossible

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to achieve finance for the build with the occupancy restriction in place. The statement also made reference to Scottish Planning Policy, PAN 73, the Aberdeen Local Development Plan, Circular 4/1998 and advice from the Chief Planner, and argued that the development of the stud farm fell within a recreational use compatible with an agricultural or natural setting.

Ms Greene advised that the stated reason for refusal was as follows:-

That the proposed deletion of Condition 1 of planning permission P120873, relating to occupancy, was contrary to Scottish Planning Policy and Policy NE2 (Green Belt) of the Aberdeen Local Development Plan, which sought to protect the integrity of Green Belts, and in particular, sought to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business, the house would not have complied with planning policy and would have been ultimately refused. The removal of this condition would undermine the policies which sought to protect the integrity of the green belt which sought to safeguard against unsustainable development and suburbanisation of the area. It was judged necessary to impose Condition 1 to ensure that the development complied with planning policies. It was judged that Condition 1 met the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (4 November 2011) had also been considered. The proposal to delete Condition 1 was considered unacceptable in planning policy terms and no sufficient justification had been submitted from the previous refusal (Ref: 140187) in order to justify the removal of the Condition.

Ms Greene added that the submitted papers included an appeal notice of determination relating to a case in Aberdeenshire but advised members that the application did not relate to the green belt, and was in relation to planning obligations, rather than the imposition of conditions.

Members then asked a number of questions of Ms Greene.

At this point, the Local Review Body considered whether it had sufficient information before it to determine the review. Members thereupon agreed that the review under consideration be determined without further procedure.

Members noted that planning permission had been approved by the Planning Committee in October 2011 on the proviso that the house was required accommodation for employees of the proposed stud farm, and also added that they considered that removal of Condition 1 would not comply with Policy NE2 (Green Belt) of the Aberdeen Local Development Plan. It was noted that removal of the Condition would effectively allow an application for a dwellinghouse within the green belt with no restrictions and therefore Members unanimously agreed to uphold the decision of the appointed officer to refuse the application.

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In coming to their decision, the Local Review Body had regard to the provisions of the Development Plan as required by Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) which required that where, in making any determination under the planning acts, regard was to be had to the provisions of the development plan and that determination should be made in accordance with the plan, so far as material the application, unless material considerations indicated otherwise.

More specifically, the reasons on which the Local Review Body based this decision were as follows:-

That the proposed deletion of Condition 1 of planning permission P120873, relating to occupancy, was contrary to Scottish Planning Policy and Policy NE2 (Green Belt) of the Aberdeen Local Development Plan, which sought to protect the integrity of Green Belts, and in particular, sought to avoid the granting of individual planning permissions to prevent the cumulative erosion of a green belt. If it were not for the specific individual requirements of the business, the house would not have complied with planning policy and would have been ultimately refused. The removal of this condition would undermine the policies which sought to protect the integrity of the green belt which sought to safeguard against unsustainable development and suburbanisation of the area. It was judged necessary to impose Condition 1 to ensure that the development complied with planning policies. It was judged that Condition 1 met the tests set out in Circular 4/1998. The advice in the letter from the Chief Planner (4 November 2011) had also been considered. The proposal to delete Condition 1 was considered unacceptable in planning policy terms and no sufficient justification had been submitted from the previous refusal (Ref: 140187) in order to justify the removal of the Condition.

- RAMSAY MILNE, Chairperson