

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 4 February 2015. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Donnelly and Jaffrey.

**The agenda and reports associated with this minute can be found at:-**  
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MIId=3673&Ver=4>

### **REVIEWS**

#### **73 CHARLOTTE STREET - 141535**

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 two requests for planning permission.

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 Stephanie Dunsmuir, as regards the procedure to be followed and also, thereafter, by Mr Paul Williamson, 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 Mrs Dunsmuir 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 Williamson explained that the application which was the subject of the review was for the reinstatement of two basement flats to habitable studio apartments in relation to 73 Charlotte Street (Planning Reference 141535). Mr Williamson advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes. He noted that the applicant had requested that the LRB undertake a site visit.

He explained that the property at 73 Charlotte Street was a three storey tenement style building split into six flats. The building was constructed of granite rubble and had a slated roof with dormers on the front and rear elevation. The rear basement elevation was exposed, with a 1.3m deep trench along its length and two window openings. The rear garden of the property had been turned into a parking area, with only a small

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amount of amenity space which was enclosed by a low metal fence near the building. Planning consent was sought for the conversion of the rearmost part of the basement to two two-roomed studio flats. The resultant flats would be accessed from the existing rear door and would make use of the two existing windows in the rear elevation. The accommodation would consist of a small living / sleeping / kitchen area with a separate bathroom.

In relation to documents which the members of the Local Review Body should consider, Mr Williamson outlined that all of 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) – new development must be designed with due consideration for its context and make a positive contribution to its setting; D2 (Design and Amenity) – in order to ensure the provision of appropriate levels of amenity, the following principles would be applied:- (a) privacy shall be designed into higher density housing; (b) residential development shall have a public face to a street and a private face to an enclosed garden or street; (c) all residents shall have access to sitting-out areas; and (d) individual flats or houses shall be designed to make the most of opportunities offered by the site for views and sunlight; and H1 (Residential Areas) – in principle, residential development would be acceptable in residential areas if :- (a) it did not constitute over development; and (b) it did not have an unacceptable impact on the character or amenity of the surrounding area.

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.

In relation to the proposed Aberdeen Local Development Plan, no new issues had been raised in terms of this application.

Mr Williamson added that the Supplementary Guidance on Householder Development was also a relevant consideration, as although the proposal was not for an extension, the techniques for assessing impact on amenity were still relevant in assessing whether the proposed studio flats would be afforded sufficient amenity, daylight and privacy.

In relation to consultations, Mr Williamson explained that no comments had been received from statutory consultees, and no letters of objection or support had been received.

Mr Williamson further explained that it was important to point out that within the Statement of Reasons, submitted with the notice of review, the applicant had included correspondence with the Planning Officer and had stated that the property in question had previously been apartments and therefore they could see no reason for the

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application to have been refused. Mr Williamson reported that no evidence had been provided which demonstrated previous use of the flats for residential purposes. The applicant had also included correspondence with the Planning Officer as part of their submission.

Mr Williamson advised that the stated reason for refusal was as follows:-

That the two studio flats, especially the flat on the right hand side of the rear elevation, were considered not to receive a sufficient level of natural light, amenity or privacy. This was due to the location of the single window serving the proposed studio flat which was located behind a raised bank and was severely overshadowed by an existing single storey extension at the neighbouring property of 71 Charlotte Street; limited outlook; and likely impingement on privacy within the single living space as a result of persons accessing the existing flats in the upper floors. The proposal was therefore considered to be contrary to Policy D2 (Design and Amenity) of the Aberdeen Local Development Plan and Policy D1 (Quality Placemaking by Design) of the Proposed Aberdeen Local Development Plan.

Members then asked a number of questions of Mr Williamson.

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.

Following discussion of the application, Members unanimously agreed that the proposal was contrary to Policy D1 and D2 of the Aberdeen Local Development Plan, citing concerns about the level of amenity, sunlight and privacy afforded to any potential residents of the property if the application were to be approved. The Local Review Body therefore unanimously agreed to **uphold** the decision of the appointed officer and **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 on which the Local Review Body based this decision were as follows:-

That the two studio flats, especially the flat on the right hand side of the rear elevation, were considered not to receive a sufficient level of natural light, amenity or privacy. This was due to the location of the single window serving the proposed studio flat which was located behind a raised bank and was severely overshadowed by an existing single storey extension at the neighbouring property of 71 Charlotte Street; limited outlook; and likely impingement on

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privacy within the single living space as a result of persons accessing the existing flats in the upper floors. The proposal was therefore considered to be contrary to Policy D2 (Design and Amenity) of the Aberdeen Local Development Plan and Policy D1 (Quality Placemaking by Design) of the Proposed Aberdeen Local Development Plan. The Local Review Body also considered that the Supplementary Guidance on Householder Development was of relevance in relation to the assessment of whether the proposed flats would be afforded sufficient amenity, daylight and privacy.

**42 ALBYN PLACE - 140365**

2. The Local Review Body then considered the second request for a review. The Chairperson advised that the LRB would now be addressed by Mr Gavin Evans and reminded members that Mr Evans 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. Mr Evans would not be asked to express any view on the proposed application.

Mr Evans explained that the application which was the subject of the review was for alterations and an extension to form new office accommodation at 42 Albyn Place. 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 undertake a site visit.

Mr Evans explained that the site was located on the south side of Albyn Place, close to its junction with Queen's Cross and comprised a detached 1½ storey granite building with a basement. The front elevation had ornate granite features and there were four significant trees in the rear garden. The site was located within the Albyn Place and Rubislaw Conservation Area. Neighbouring the site was an ornate 2½ storey listed building and a 1½ storey office building, both of which had been extended. Mr Evans explained that planning permission was sought for the construction of a three storey extension to the rear of the building and the conversion of the first floor residential flat to provide additional office accommodation. The proposed extension would measure approximately 21.5m long by 12.5m, with a height of 9.5m. The extension would be of a contemporary design and finished mostly in glass curtain walling on the side and rear elevations, with some areas of timber effect cladding and Chinese granite. The link section between the existing building and the new office accommodation would be three storeys high. It was also proposed to provide a car parking area comprising eight parking spaces within the rear of the site.

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:-

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Development Plan – Aberdeen Local Development Plan (2012); D1 (Architecture and Placemaking) – to ensure high standards of design, new developments must be designed with due consideration for context and make a positive contribution to its setting; D5 (Built Heritage) – that proposals affecting listed buildings would only be permitted if they complied with Scottish Planning Policy; B13 (West End Offices) – within the area, applications for change of use for office purposes would be given favourable consideration; and NE5 (Trees and Woodlands) – the presumption against all activities and development that would result in the loss of or damage to established trees and woodlands that contribute significantly to nature conservation, landscape character or local amenity, including ancient and semi-natural woodland which was irreplaceable.

Proposed Development Plan – D1 (Quality Placemaking by Design) – to ensure high standards of design and to have a strong and distinctive sense of place which was a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials; D4 (Historic Environment) – to protect, preserve and enhance the historic environment in line with Scottish Planning Police, SHEP, Supplementary Guidance, and Conservation Area Character Appraisals and Management Plan – to assess the impact of proposed development and support high quality design that respects the character, appearance and setting of the historic interest of listed buildings, conservation areas, archaeology, scheduled monuments, historic gardens and designed landscapes; NE5 (Trees and Woodlands) – the presumption against all activities and development that would result in the loss of, or damage to, trees and woodlands that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation; B3 (West End Office Area) – within the area, proposals for change of use to office use, or the expansion of existing office use, would only be acceptable provided (a) the size, scale and design of the development proposals respected the special historical and architectural character of the area and (b) the design met all the of the relevant criteria set out in the Historic Environment TAN, with regard to relationship to the existing building, context and modifications to existing extensions.

Scottish Historic Environment Policy and the Albyn Place / Rubislaw Conservation Area Appraisal were relevant material considerations. 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 comments had been received from the Roads Projects team in relation to the number of parking spaces which should be provided by the applicant. It was noted that the proposed site could provide up to 28 parking spaces, but following subsequent discussions, only 13 were to be provided, however as the site was located within a controlled parking zone with pay and display parking facilities and due to the good accessibility to public transport and the proximity

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of the site to the city centre, the shortfall in parking was considered to be acceptable, if a condition were imposed in relation to the provision of measures to promote sustainable access to the development. The Roads Project team also added that 5 cycle spaces and 1 motorcycle space should be provided, and the disabled parking bay should be relocated to the front of the premises. Mr Evans advised that no letters of objection or support had been received.

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 stated that the property was one of the last remaining large, detached villas situated on Albyn Place which had not been significantly altered or extended, and therefore offered a prime opportunity to showcase fresh and contemporary architecture for the proposed extension which would serve to enhance the conservation area and would not detract from its built heritage; that over time, buildings in Albyn Place had evolved to accommodate commercial use; that the neighbouring properties had been extended significantly and that there was a strong precedent for large scale extensions within the rear grounds of existing properties; that the proposed extension would be mostly hidden from view and would not be clearly visible within the context of the immediate surrounding area nor dominate the existing building by way of its scale; that the proposals had been revised since the original submission in direct response to initial concerns raised by the Planning service in relation to the scale of the proposals; that the proposals demonstrated a high standard of contemporary architecture and design; that the extension would set a high standard for similar commercial developments within the conservation area and would not set an undesirable precedent; that there had been no prior notification from the Planning officer that the impact on existing trees would be a cause for concern, and that opportunities for replacement planting could be explored within the site; that the proposal conformed to Policy B3 of the Proposed Local Development Plan due to the high quality design; and that the proposed development full confirmed to the extant Development Plan.

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

That the proposal, if approved, would be detrimental to and thus not preserve or enhance the character of Conservation Area 4 (Albyn Place / Rubislaw) due to the inappropriate and excessive scale, massing and form of the proposed extension, contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policies D1 (Architecture and Placemaking) and D5 (Built Heritage) of the Aberdeen Local Development Plan and Policies D1 (Quality Placemaking by Design), D4 (Historic Environment) and NE5 (Trees and Woodlands) of the Proposed Aberdeen Local Development Plan;

That the proposal, if approved, would result in the loss of two additional trees, not previously granted for removal, which would be to the detriment of the character, amenity and appearance of the local area, contrary to Policy NE5 (Trees and Woodlands) of the Aberdeen Local Development Plan;

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That the proposal, if approved, would be contrary to Policy B3 (West End Office Area) of the Proposed Aberdeen Local Development Plan due to its adverse impact on the character of the conservation area arising from the inappropriate and excessive scale, massing and form of the proposed extension; and

That the proposal, if approved, would set an undesirable precedent for similar developments in Conservation Area 4 (Albyn Place / Rubislaw) that would significantly adversely affect and undermine the special character of the area.

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.

Councillors Jaffrey and Donnelly stated that they did not feel that the proposed development would be inappropriate or excessive, noting that there were a number of other properties in the surrounding area which had large extensions and therefore they did not feel that approving the application would be detrimental to and thus not preserve or enhance the character of the Albyn Place / Rubislaw conservation area; nor did they consider it was contrary to Policies D1 and D5 of the Aberdeen Local Development Plan or Policies D1 and D4 of the Proposed Aberdeen Local Development Plan. They added that they did not feel that the removal of the two trees would be to the detriment of the character, amenity and appearance of the local area, and did not therefore consider the application to be contrary to Policy NE5 (Trees and Woodland). Noting that they did not consider the mass and scale of the proposal to be excessive, they did not feel the application was contrary to Policy B3 (West End Office Area) of the Proposed Local Development Plan. The Chairperson advised that he did not agree with this position, and that he was in agreement with the assessment of the case officer that the application was contrary to the various planning policies outlined in the report.

It was therefore agreed by the majority of the Local Review Body that the decision of the appointed officer to refuse the application be **reversed** and agreed a **willingness to approve** the application, subject to the following conditions:-

(a) that no development shall take place unless a scheme detailing all external finishing materials to the roof, walls and driveway/parking surfaces of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed - in the interests of visual amenity;

(b) that no development shall take place unless the scheme for the protection of trees to be retained, detailed in Astell Associates report ref ApA42-1402-TR or any other such scheme as has been submitted to and approved in writing by the planning authority, has been fully implemented - in order to ensure adequate protection for trees on site during the construction of the development;

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(c) that the extension hereby approved shall not be occupied unless the car, motorcycle (including a secure fixed point) and bicycle parking areas serving the building have been constructed, drained, laid-out and demarcated in accordance with drawings 3787\_104c and 3787\_109 of the plans hereby approved, or such other drawing as may subsequently be submitted and approved in writing by the planning authority for this purpose. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of vehicles ancillary to the development hereby granted approval - in the interests of public safety and the free flow of traffic;

(d) that no development shall be undertaken until such time as a Drainage Impact Assessment, including proposals for the treatment and drainage of surface water, has been submitted to and agreed in writing by the planning authority. Thereafter, the proposed extension shall not be brought into use until such time as the agreed scheme of drainage has been implemented in full, unless otherwise agreed in writing by the planning authority – in order to safeguard water qualities in adjacent watercourses and to ensure that the proposed development can be adequately drained;

(e) that no development shall take place unless there has been submitted to and approved in writing a detailed Green Transport Plan, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets - in order to encourage more sustainable forms of travel to the development; and

(f) that the extension hereby granted planning permission shall not be brought into use unless provision has been made within the application site for refuse storage and disposal in accordance with a scheme which has been submitted to and approved in writing by the planning authority – in order to preserve the amenity of the neighbourhood and in the interests of public health.

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 majority of the Local Review Body were of the opinion that the proposed development was acceptable in terms of its form, scale and massing and was not contrary to Policy D1 (Architecture and Placemaking) and D5 (Built Heritage) of the Aberdeen Local Development Plan; nor Policy D1 (Quality Placemaking by Design), D4 (Historic Environment) or NE5 (Trees and Heritage) of the Proposed Aberdeen Local Development Plan, citing extensions at other neighbouring properties. The members were also of the opinion that the loss of the two trees would not be to the detriment of the character, amenity and appearance of the



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local area, and that the application was therefore not contrary to Policy NE5 (Trees and Woodlands) of the Aberdeen Local Development Plan. The members were of the opinion that the application would not be contrary to Policy B3 (West End Office Area) of the Proposed Local Development Plan, as they did not feel that it would have an adverse impact on the character of the conservation area, and did not consider that the application would set an undesirable precedent for similar developments in the Albyn Place / Rubislaw Conservation Area.

- **RAMSAY MILNE, Chairperson**