

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 23 March 2015. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Cameron, Chairperson; and Councillors Jaffrey and Lawrence.

The agenda and reports associated with this minute can be found at:-
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MIId=3745&Ver=4>

11 CHEYNE ROAD - 140113

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 Cameron, 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, Mr Mark Masson, as regards the procedure to be followed and also, thereafter, by Mr Nicholas Lawrence, 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 Mr Masson 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.

By way of some preliminary points, Mr Lawrence advised that correspondence had been circulated to the Clerk from the applicant's agent, which were circulated to Members, this included supporting information by way of supplementary guidance issued and the reference by the agent that Members should consider a reduced (i.e. different and smaller scheme) to that which formed the planning application.

Mr Lawrence advised that the Local Review Body could not determine a development that was not presented to the Council's Case Officer for determination and this position was clearly set out at paragraph 24 of the Circular as follows:-

All matters that the applicant intends to raise in the review should be set out in or accompanying the notice of review, as should all documents, materials and evidence upon which the Applicant intends to rely.

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Mr Lawrence continued by intimating that in this instance, whilst the applicant in his e-mail via his agent references alternate drawings, these were not presented as part of the application for determination and therefore the Local Review Body could only determine what was before the Case Officer.

Mr Lawrence advised that on the matter of plot ration, the agent references a 40% target. The supplementary guidance that Members were aware of has a percentage reference that was set out as 33%, the document does not contain a 40% figure. The meeting where this figure was derived from was not recorded in any document. Councillor Milne's e-mail which was circulated as part of the papers, does not cite this figure and noted that the Officers indicated that there could be flexibility in the supplementary guidance percentage. It was also noted that any opinion offered by an Officer was made without prejudice and was not binding upon the local planning authority.

Mr Lawrence explained that the application which was the subject of the review was for the demolition of an existing dwelling and detached garage and the erection of a new dwelling (Planning Reference 140113). Mr Lawrence advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes.

He explained that the application had been submitted on 18 February, 2014 and that the decision to refuse the application was taken by officers on 26 November, 2014.

The report by the officer's advised that the property at 11 Cheyne Road was set on the corner of Cheyne Road and Dunbar Street and was a single storey which was detached and located within a well-established residential area. The application sought detailed planning permission for the construction of a 1½ storey dwellinghouse on a plot extending to approximately 290 sqm, with the existing single storey dwellinghouse and garage being demolished.

In relation to documents which the members of the Local Review Body should consider, Mr Lawrence made reference to the correspondence which was circulated and the planning policies which were accessible via web links and available as set out in the papers as follows:-

Development Plan – Aberdeen Local Development Plan (2012); H1 (Residential Areas) – states that, within existing residential areas, proposals for new residential development will be approved in principle if it does not constitute over development; does not have an unacceptable impact on the character and amenity of the surrounding area; does not result in the loss of valued areas of open space and complies with Supplementary Guidance on Curtilage Splits; D1 (Architecture and Placemaking) – new development must be designed with due consideration for its context and make a positive contribution to its setting; D5 (Built Heritage) – states that proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy; R7 (Low and Zero Carbon Buildings) – new buildings install

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low and zero carbon generating technologies to reduce their predicted carbon dioxide emissions

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.

Mr Lawrence added that the Supplementary Guidance on Sub-Division and Re-Development of Residential Curtilages was also a relevant consideration.

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

(1) The proposal would result in 42.8% of the overall plot being developed and an insufficient level of rear garden ground would be provided in comparison with the prevailing garden sizes and site coverages. The proposal would result in over development of the site and the proposal would not comply with the Supplementary Guidance on the Sub-Division and Redevelopment of Residential Curtilages. As a result, the proposal is therefore considered contrary to the terms of Policy D1 (Architecture and Placemaking) and Policy H1 (Residential Areas) of the Local Development Plan and the associated Supplementary Planning Guidance: Sub Division and Redevelopment of Residential Curtilages.

(2) The proposed development has not been designed with due consideration for its context and would have an overbearing impact, particularly when viewed from the Dunbar Street elevation, as a result the proposal is contrary to Policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan.

Members then asked a number of questions of Mr Lawrence.

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 H1, D1, D5 and R7 of the Aberdeen Local Development Plan, citing concerns about over development of the plot in particular 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.

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

- (1) that the proposal would result in 42.8% of the overall plot being developed and an insufficient level of rear garden ground would be provided in comparison with the prevailing garden sizes and site coverages. The proposal would result in over development of the site and the proposal would not comply with the Supplementary Guidance on the Sub-Division and Redevelopment of Residential Curtilages. As a result, the proposal was therefore considered contrary to the terms of Policy D1 (Architecture and Placemaking) and Policy H1 (Residential Areas) of the Local Development Plan and the associated Supplementary Planning Guidance: Sub Division and Redevelopment of Residential Curtilages; and
- (2) that the proposed development has not been designed with due consideration for its context and would have an overbearing impact, particularly when viewed from the Dunbar Street elevation, as a result the proposal is contrary to Policy D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan.

- COUNCILLOR DAVID CAMERON, Chairperson