

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 24 August 2015. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Jean Morrison MBE and Stuart.

**The agenda and reports associated with this minute can be found at:-**  
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MIId=3997&Ver=4>

### **REVIEWS**

#### **21A FARBURN TERRACE - 150141**

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, Mr Mark Masson, 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 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.

Mr Evans explained that the application which was the subject of the review was to erect an extension to the front (southern elevation) of the existing garage at 21A Farburn Terrace, Dyce, to create additional workshop space for vehicle servicing, etc. The extension would be 14.6m wide, 4.9m high and 8.5m deep, providing a further 136m<sup>2</sup> of floor space. To the west, it would extend 3.4m past the current building line and a slightly smaller projection of 1.2m from the east. The principal elevation would feature two electronically operated garage doors, which open onto the existing yard, of 4m and 3m wide respectively, and a staff access door. The extension would see composite cladding on a steel frame, roofed with insulated panels.

Mr Evans advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes.

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In relation to documents which the members of the Local Review Body should consider, Mr Evans 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 - H2 – Mixed Use Areas -** Development or change of use within Mixed Use Areas must take into account the existing uses and character of the surrounding area, and avoid undue conflict with the adjacent land uses and amenity. Where new industrial, business or commercial uses are permitted, development should not adversely affect the amenity of people living and working in the area; **D1 – Architecture and Placemaking** - Policy D1 states that development must be designed with due consideration for its context and make a positive contribution to its setting. Key factors in assessing proposals are siting, scale, massing, colour, materials, orientation, and details; **H8 – Housing and Aberdeen Airport** - Applications for residential development under or in the vicinity of aircraft flight paths where the noise levels are in excess of 57dB LAeq (using the summer 16-hour dB LAeq measurement) will be refused, due to the inability to create an appropriate level of residential amenity, and to safeguard the future operation of Aberdeen Airport.

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, the following policies substantively reiterate policies in the adopted plan:- H2 – Mixed Use Areas (see Policy H2 – Mixed Use Areas in adopted LDP), D1 – Quality Placemaking by Design (see Policy D1 – Architecture and Placemaking in adopted LDP), B4 – Aberdeen Airport (see Policy H8 – Housing and Aberdeen Airport in adopted LDP)

Mr Evans added that the Supplementary Guidance on Harmony of Uses was also a relevant consideration.

In relation to consultations, Mr Evans explained that the only comment received from statutory consultees was from Environmental Health, who advised that the area does not currently enjoy a high level of amenity, and there is already disturbance from noise sources. They advised that the likelihood of nuisance caused by the proposals would not be significantly increased, although the primary objective must be the protection of the public and therefore it was prudent to take a precautionary approach. The recommendation to refuse the application was supported by Environmental Health.

Three letters of objection had been received all relating to the impact of the proposals on the neighbouring house.

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

These proposals are unacceptable when considered against Policy H2 of the Local Development Plan, which states that new development in Mixed Use Areas must not adversely affect the amenity of people living and working in the area. It is considered that the proximity and position of the proposed extension would have a significant negative impact on the residential amenity of the adjacent house at 21 Farburn Terrace, through loss of privacy, increased nuisance (noise, smell, fumes) and heightened sense of enclosure. It is acknowledged that some of these impacts already exist due to the current operation of the garage. However, they would be significantly increased as a result of the extension, to an unacceptable degree. For the same reason, the proposals are also unacceptable according to the relevant Policy H2 – Mixed Use Areas in the Proposed Aberdeen Local Development Plan.

Members then asked a number of questions of Mr Evans.

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 H2 of the Local Development Plan. 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:-**

These proposals are unacceptable when considered against Policy H2 of the Local Development Plan, which states that new development in Mixed Use Areas must not adversely affect the amenity of people living and working in the area. It is considered that the proximity and position of the proposed extension would have a significant negative impact on the residential amenity of the adjacent house at 21 Farburn Terrace, through loss of privacy, increased nuisance (noise, smell, fumes) and heightened sense of enclosure. It is acknowledged that some of these impacts already exist due to the current operation of the garage. However, they would be significantly increased as a result of the extension, to an unacceptable degree. For the same reason, the proposals are also unacceptable according to the relevant Policy H2 – Mixed Use Areas in the Proposed Aberdeen Local Development Plan.

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**HARECRAIG, CULTER HOUSE ROAD - 141735**

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 Clark and reminded members that Mr Clark 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 Clark would not be asked to express any view on the proposed application.

Mr Clark explained that the application which was the subject of the review was for the demolition of an existing dwelling/garage and the erection of two dwellings (sub-division of residential curtilage). Mr Clark explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes.

Mr Clark explained that the site was located on the north side of Culter House Road, approximately 50m to the east of the junction with Robertson Place and comprises a 2-storey dwellinghouse set in a site of around 0.3ha in size, with the house being positioned towards the front of the plot on a similar building line to 8a Culterhouse Road to the east. The application plot rises up slightly from the road towards the rear boundary where there is currently a tennis court set in the extensive landscaped garden with the existing house sitting around 1.5m above road level. To the west, the house at 36 Culterhouse Road sits slightly further back into that plot and with a south-west orientation. To the east of the site, the houses (no's 8a, 8b and 8c) are laid out in a cul-de-sac arrangement, whereas the houses to the west are generally set towards the back of the plots with substantial front gardens. On the south side of the road, the pattern of development is significantly different, with detached houses being set in smaller plots unlike a suburban housing estate. In terms of style and size of property, this varies throughout the immediate area. To the immediate north of the site lies a large area of mature forest. To the east (abutting the application site) the trees are covered by a Tree Preservation Order (TPO No. 62). Along the frontage of the site there is a row of mature landscaping (hedge and trees) which continues along the east and west boundaries. There are also a number of trees within the application site.

Mr Clark explained that planning permission was sought for the construction of two detached 2-storey 5-bedroom houses. Each plot would comprise an area of around 0.15ha in size.

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; Policy H1 – Residential Areas  
- Proposals for new residential development will be favourably considered subject to applications being satisfactory in terms of the siting, design and external appearance of the buildings, the means of access thereto, the landscaping of the site and on the further considerations of amenity, public safety and drainage; Policy D1 – Architecture

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and Placemaking - Seeks to ensure high standards of design in all new developments, requiring all development to be designed with due consideration for its context and to 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 spaces, landscaping and boundary treatments, will be considered in assessing that contribution; Policy NE5 – Trees and Woodland - There is a presumption against all activities and development that will result in the loss of or damage to established trees and woodlands that have a natural heritage value or contribute to the character or amenity of a particular locality; Policy NE8 – Natural Heritage - Development that, taking into account any proposed mitigation measures, has an adverse effect on a protected species or an area designated because of its natural heritage value. Applicants should submit supporting evidence relative to protected species.

Mr Clark added that the Supplementary Guidance on 'The Sub-division and Redevelopment of Residential Curtilages' and 'Bats and Development' were relevant material considerations.

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

Mr Clark advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes.

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

1) The proposal is contrary to Policy NE5 (Trees and Woodlands) of the Aberdeen Local Development Plan, the Council's Supplementary Guidance: *Trees and Woodlands*, and *The Sub-division and Redevelopment of Residential Curtilages*. There is a presumption against all activities and development that will result in the loss of or damage to established trees that contribute significantly to nature conservation, landscape character or local amenity. Buildings and services should be sited so as to minimise adverse impacts on existing and future trees and tree cover. The proposal fails to provide an adequate separation distance from the beech, sycamore and douglas fir trees on the adjacent site to the east which are protected by a group Tree Preservation Order (TPO No. 62).

2) By virtue of the proposed position of the houses on the site and their scale, massing and design, it is considered that the proposal fails to take account of its context and is therefore is contrary to Policy H1 (Residential Areas) and Policy D1 (Architecture and Placemaking), and the Council's Supplementary Guidance *The Sub-division and Redevelopment of Residential Curtilages* all of which seek to ensure that that the siting and design of new housing takes account of its

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setting, the surrounding landscape character, the topography of the site and the character and appearance of the area.

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

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 Local Review Body agreed 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:-

- 1) that no development shall take place unless a scheme detailing all external finishing materials to the roof and walls (including samples) 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.
- 2) that no development pursuant to this planning permission shall take place, nor shall any part of the development hereby approved be occupied, unless there has been submitted to and approved in writing by the Planning Authority, a detailed scheme of site and plot boundary enclosures for the dwellinghouses hereby granted planning permission. None of the buildings hereby granted planning permission shall be occupied unless the said scheme has been implemented in its entirety - in order to preserve the amenity of the neighbourhood.
- 3) that no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.
- 4) that the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing No. 502208I of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of cars ancillary to the development

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and use thereby granted approval - in the interests of public safety and the free flow of traffic.

- 5) that no development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting - in the interests of the amenity of the area.
- 6) that no development shall take place unless a plan showing those trees to be removed and those to be retained and a scheme for the protection of all trees to be retained on the site during construction works has been submitted to, and approved in writing by, the Planning Authority. Said scheme shall also include details for the protection of all trees located on the boundary of the property. The scheme shall thereafter be implemented in its entirety - in order to ensure adequate protection for the trees on site during the construction of the development.
- 7) that no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the Planning Authority and no fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks - in order to ensure adequate protection for the trees on site during the construction of the development.
- 8) that the building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full - to ensure that this development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.

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that, except as the Planning Authority may otherwise agree in writing, no construction or demolition work shall take place:

- (a) outwith the hours of 7.00 am to 7.00 pm Mondays to Fridays;
- (b) outwith the hours of 9.00 am to 4.00 pm Saturdays; or
- (c) at any time on Sundays,

except (on all days) for works inaudible outwith the application site boundary. [For the avoidance of doubt, this would generally allow internal finishing work, but not the use of machinery] - in the interests of residential amenity.

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:-**

- 1) The proposal is not contrary to Policy NE5 (Trees and Woodlands) of the Aberdeen Local Development Plan, the Council's Supplementary Guidance: Trees and Woodlands, and The Sub-division and Redevelopment of Residential Curtilages.
- 2) It is not considered that the proposal fails to take account of its context and is therefore is not contrary to Policy H1 (Residential Areas) and Policy D1 (Architecture and Placemaking), and the Council's Supplementary Guidance The Sub-division and Redevelopment of Residential Curtilages.

**- RAMSAY MILNE, Chairperson**