

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

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

The agenda and reports associated with this minute can be found at:-
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MI d=4049&Ver=4>

13-14 ADELPHI - 141482

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 three 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 Lynsey McBain, as regards the procedure to be followed and also, thereafter, by Mr Andrew Miller, who would be acting as the Planning Adviser to the Body in the first case under consideration this day.

The Chairperson stated that although Mr Miller 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 McBain 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 Miller explained that the application which was the subject of the review was for the alteration, partial demolition and change of use of the former trades club, to form 5 flats which would consist of two 2 bedroom, and three 3 bedroom properties. Mr Miller explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes.

Mr Miller advised that all flats would be of maisonette style, with accommodation over two levels (ground and basement). All of the flats would be single aspect, with two flats in the original part of the building towards the Adelphi, and three towards the lane to the rear. The first and second floors of the property are already in use as 6 flatbed properties, which are accessed from a doorway on Adelphi Lane.

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Mr Miller explained that the two storey flat roofed extension at the rear of the building would be remodelled and drawn back by 1.8 metres, from the 1.2 metre wide lane and this would therefore create a separation of 3 metres from the blank rear gable of the building onto Market Street beyond. It would also cater for the provision of a tapered strip of defensible space with low landscaped cover, ranging from 1.5 to 1.8 metres in width and no direct access would be available to this space from the flats.

Mr Miller also advised that it was proposed to replace the existing windows to the front elevation with double glazed timber framed sash and case units painted white. One of the existing doorways to the Adelphi elevation would also be partially blocked, to form a window with solid panel below. On the side/north elevation, two blocked up windows would be re-opened, with timber framed windows reinstated and in the remodelled extension to the rear, new doubled glazed white upvc windows would be installed.

Mr Miller advised that the application had been refused on the grounds that the proposal would result in the provision of a number of sub-standard properties which would have an insufficient level of residential amenity, by nature of their lack of sunlight/daylight through convoluted and restricted apertures, and the close proximity to surrounding buildings. As such the proposal would be contrary to Aberdeen Adopted Local Plan Policy D2 – Design and Amenity, and the associated Supplementary Guidance on the ‘Sub-division and Redevelopment of Residential Curtilages.’ Furthermore, the proposal, if approved, would set an undesirable precedent for similar developments which would have a significant adverse impact on the residential amenity experienced in such properties.

Mr Miller noted that eleven letters of representation had been received in respect of the application. Five which raised objections relating to the following matters:-

- Additional flats in the centre of town shall put pressure on existing schools and roads;
- Further improvements could be made to the frontage of the building to modernise it;
- The rear roof could also be improved by altering its shape and appearance; and
- Additional traffic utilising the narrow entrance would be a concern.

The remaining six letters of support highlighted the following aspects:-

- The proposal would contribute to regeneration through bringing a disused building back into use;
- The proposal would help to deliver much needed homes for the City, and is an appropriate use for the building; and
- The Aberdeen Civic Society considers the proposal sensitively retains the historical façade of the building.

Mr Miller then drew Members’ attention to the matters raised in the Notice of Review and supporting statement, before highlighting the relevant planning policies which had been taken into consideration in determination of the application:-

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Scottish Planning Policy (SPP)

Scottish Historic Environment Policy (SHEP) July 2009

Aberdeen Local Development Plan:-

- Policy C2 (City Centre Business Zone and Union Street)
- Policy D1 (Architecture and Placemaking)
- Policy D2 (Design and Amenity)
- Policy D4 (Aberdeen's Granite Heritage)
- Policy D5 (Built Heritage)
- Policy I1 (Infrastructure Delivery and Developer Contributions)
- Policy H5 (Affordable Housing)
- Policy R6 (Waste Management Requirements for New Development)

Supplementary Guidance relating to Sub-division and Redevelopment of Residential Curtilages is of relevance to the development. Although specifically targeted at residential development on sites currently in residential use, some elements of the guidance are applicable to other types of development and these include sections on amenity, daylight and sunlight. It was also noted that Union Street Conservation Area Appraisal was also a relevant material consideration.

The stated reason for refusal of planning permission was as follows:-

That the proposal, if approved, would result in the provision of a number of sub-standard properties which would have an insufficient level of residential amenity, by nature of their lack of sunlight/ daylight through convoluted and restricted apertures, and the close proximity to surrounding buildings. As such, the proposal would be contrary to Aberdeen Adopted Local Plan Policy D2 - Design and Amenity, and the associated Supplementary Guidance on the 'Sub-division and Redevelopment of Residential Curtilages'. Furthermore, the proposal, if approved, would set an undesirable precedent for similar developments which would have a significant adverse impact on the residential amenity experienced in such properties.

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

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 pursuant to this planning permission shall take place nor shall the building be occupied unless there has been submitted to and approved in writing for the purpose by the Planning Authority an assessment of the noise levels likely within the building, unless the planning authority has given prior written approval for a variation. The assessment shall be prepared by a suitably qualified independent noise consultant and shall recommend any measures necessary to ensure a satisfactory noise attenuation for the building. The property shall not be occupied unless the said measures have been implemented in full - in the interests of residential amenity.

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2. that the development hereby granted planning permission shall not take commence unless provision has been made within the application site for waste and recycling storage in accordance with a scheme which has been submitted to and approved in writing by the planning authority. Thereafter the development shall not be occupied unless said scheme has been implemented - in order to preserve the amenity of the neighbourhood and in the interests of public health.
3. that no development (excluding demolition work granted as part of this consent) shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work which shall include post-excavation and publication work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority - in the interests of protecting items of historical importance as may exist within the application site.
4. That none of the flats hereby granted planning permission shall be occupied unless a scheme detailing cycle storage provision has been submitted to, and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme - in the interests of encouraging more sustainable modes of travel
5. that no development shall commence unless a detailed scheme for the replacement windows hereby granted as part of this development has been submitted to and approved by the planning authority - in order to preserve the character of the conservation area.

The issuing of consent is subject to the applicant entering into a legal agreement with the planning authority to secure developer obligations towards the City Car Club, Strategic Transport Fund and affordable housing.

In coming to their decision, the Local Review Body had regards 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 proposal, if approved, would not result in the provision of a number of sub-standard properties which would have an insufficient level of residential amenity, by nature of their lack of sunlight/ daylight through convoluted and restricted apertures, and the close proximity to surrounding buildings. As such, the proposal would not be contrary to Aberdeen Adopted Local Plan Policy D2 - Design and Amenity, and the associated Supplementary Guidance on the 'Sub-division and Redevelopment of Residential Curtilages'. Furthermore, the proposal, would not set an undesirable precedent for similar developments which would have a significant adverse impact on the residential amenity experienced in such properties.

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243 NORTH DEESIDE ROAD, PETERCULTER - 150466

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

Mr Williamson explained that the application which was the subject of the review was the retrospective change of use of the property at 243 North Deeside Road, Peterculter to a house of multiple occupation (HMO). Mr Williamson explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes.

Mr Williamson explained that the site comprised a seven bedroom first floor flat on the southern side of North Deeside Road, Peterculter, and formed part of a two storey building accessed via steps at the rear of the building. The ground floor of the building was occupied by a bank. Retrospective detailed planning permission was sought for the change of use of the flat to an HMO.

Mr Williamson advised that the applicant had requested that a site visit be undertaken to afford Members further insight into the site specific circumstances which were defined as the availability of bicycle parking to the rear of the property, and the availability of spaces to the rear of a nearby pub which was also owned by the applicant. Mr Williamson explained that it was however for members of the LRB to determine the requirement for further procedures, if they deemed them necessary.

The part of North Deeside Road where the property was situated was predominantly residential in nature, although there were a number of small shops and other facilities within walking distance. As such, the site formed part of the Peterculter District Centre designation within the Adopted Local Development Plan.

Mr Williamson advised that the application had been refused on the grounds that the proposal would fail to provide any parking as part of the development in an area where on street parking was at a premium, and would therefore result in an exacerbation of parking problems in the local area and would have an adverse impact on the amenity of established residential uses as well as road safety. The reason for refusal also stated that the HMO would fail to provide sufficient useable amenity space and therefore had been considered to be non-compliant with the requirements of the Council's Supplementary Guidance on Householder Development.

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Mr Williamson then drew Members' attention to the matters raised in the Notice of Review and supporting statement, before highlighting the relevant planning policies which had been taken into consideration in determination of the application:-

Development Plan – Aberdeen Local Development Plan (2012)

Policy RT3 (Town, District and Neighbourhood Centres) – sets out the criteria for proposals which changed the use of a premises from retail to non-retail use. As the property was not in retail use, Mr Williamson advised that this Policy was not particularly applicable.

Supplementary Guidance relating to Householder Developments:- In considering an application to change the use of a property to form a House in Multiple Occupation, the factors taken into consideration included:-

- Any adverse impact upon pedestrian or road safety as a result of any increased pressure on parking
- Significant adverse impact upon residential amenity, which could relate to appropriate provision of garden ground / amenity space; and
- Whether or not there was an excessive concentration of HMOs in a given locality

Mr Williamson then referred to the comments from consultees, highlighting the comment from the Roads Engineer which recommended refusal of the application due to the shortfall of parking available in an area where on street parking was at a premium.

Mr Williamson concluded by advising that the Local Review Body needed to assess whether the proposal would have any adverse impact upon pedestrian or road safety; or whether there would be a detriment to residential amenity through the lack of provision of amenity space for residents, as per the requirements of the identified Supplementary Guidance.

The stated reason for refusal of planning permission was as follows:-

Notwithstanding its retrospective nature, the change of use of the flat to a House of Multiple Occupation failed to provide any parking as part of the development in an area where on street parking was at a premium and would result in an exacerbation of parking problems in the local area and would have an adverse impact on the amenity of established residential uses as well as road safety. In addition, the HMO failed to provide sufficient useable amenity space. Accordingly, the change of use to a House of Multiple Occupation would therefore fail to comply with the requirements of the Council's Supplementary Guidance – Householder Development Guide.

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

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

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agreed that the review under consideration should be determined without further procedure, as members were familiar with the site in question.

During discussion of the application, the Local Review Body required some clarification in response to a query around the ownership of the site. Rather than having to adjourn, as the applicants were in attendance to observe the meeting, the LRB agreed, with the consent of the planning officer, to receive clarification from the applicants in respect of the site and the amenity space which could be provided.

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 within two months of the date of this decision notice a scheme detailing car parking provision (and associated delineation) for three cars on land in the applicants control has been submitted to, and approved in writing by the planning authority, and thereafter implemented in complete accordance with said scheme and retained in perpetuity unless otherwise agreed in writing by the Planning Authority - in the interests of public safety and the free flow of traffic.

- 2) That within two months of the date of this decision notice a scheme detailing cycle storage provision for two bicycles has been submitted to, and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme - in the interests of encouraging more sustainable modes of travel.

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:-

The Local Review Body considered that the change of use of the flat to a House of Multiple Occupation would not result in an exacerbation of parking problems in the local area and would not have an adverse impact on the amenity of established residential uses as well as road safety. They did not consider that the HMO failed to provide sufficient useable amenity space. Accordingly, they did not consider that the change of use to a House of Multiple Occupation would fail to comply with the requirements of the Council's Supplementary Guidance - Householder Development Guide.

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3. Finally, the Local Review Body then considered the third request for a review. The Chairperson advised that the LRB would now be addressed by Mr Robert Forbes and again reminded members that Mr Forbes 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 Forbes would not be asked to express any view on the proposed application.

Mr Forbes explained that the application which was the subject of the review was for the replacement of the existing flat roof on the front porch of the property at 8 Turnberry Gardens (151183) with a pitched roof which would extend the full width of the dwelling. The application site was located in a small residential cul-de-sac off Braehead Way. The property in question was a modern semi-detached two storey dwelling located on the east side of Turnberry Gardens. The south side of the property had been extended with a two storey extension and to the front of the property was a small flat roof front porch finished in red brick. Planning permission was sought to replace the existing flat roof on the front porch with a new lean-to tiled roof which would extend the full width of the front elevation to form a canopy.

Mr Forbes explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes. He advised the appellant did not consider that the proposal would have a detrimental impact on the street scene.

In relation to documents which the members of the Body should consider, Mr Forbes 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 D1 – Quality Placemaking by Design – all development must ensure high standards of design and have a strong and distinctive sense of place which was the result of context appraisal, detailed planning, quality architecture, craftsmanship and materials.

Policy H1 – Residential Areas – within existing residential areas and within new residential developments, proposals for new development and householder development would be approved in principle if it:

- Did not constitute over-development;
- Did not have an unacceptable impact on the character or amenity of the surrounding area
- Did not result in the loss of valuable and valued areas of open space; and
- Complied with Supplementary Guidance.

Mr Forbes added that the Supplementary Guidance on Householder Development should also be considered.

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

The proposed pitched roof and extended canopy did not comply with Aberdeen Local Development Plan Policy D1 (Architecture and Placemaking) and H1 (Residential Areas) and with the related Householder Development Guide as the design and appearance would not make a positive contribution to the setting and would have an unacceptable impact on the character or amenity of the surrounding area. By virtue of this, the application did not comply with Policy D1 and H1 in the Proposed Aberdeen Local Development Plan.

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

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 therefore 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:-

The proposed pitched roof and extended canopy did not comply with Aberdeen Local Development Plan Policy D1 (Architecture and Placemaking) and H1 (Residential Areas) and with the related Householder Development Guide as the design and appearance would not make a positive contribution to the setting and would have an unacceptable impact on the character or amenity of the surrounding area. By virtue of this, the application did not comply with Policy D1 and H1 in the Proposed Aberdeen Local Development Plan.

- RAMSAY MILNE, Chairperson