

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 16 February 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor , Chairperson; and Councillors Jaffrey and Sandy Stuart.

**The agenda and reports associated with this minute can be found at:-**  
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MIId=4111&Ver=4>

### **17 MURRAY TERRACE, ABERDEEN - 151445**

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 Paul Williamson, who would be acting as the Planning Adviser to the Body for the first case under consideration this day.

The Chairperson advised that Mr Paul 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.

The report explained that the application which was the subject of the review was for the erection of a single storey extension to the rear (south) elevation of the property to accommodate a new kitchen, living room and utility at ground floor level. The proposed extension would measure the full width of the site and would project 4.8m from the rearmost part of the elevation. The proposed extension would be flat roofed and would measure 2.6m to the eaves, with an overall height of 3.2m. The south elevation of the proposed extension would incorporate a large expanse of full height glazing, with a short 1.5m projection of timber decking leading into the back garden. The proposed extension would be finished in new granite (grey) to the proposed walls; a Sarnafil flat roof membrane, zinc projection fascia and anthracite coloured aluminium bi-folding doors.

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.

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

**Development Plan – Aberdeen Local Development Plan (2012)**

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Policy H1 (Residential Areas)

Mr Williamson explained that the Council's Supplementary Guidance relating to Householder Developments, makes specific reference to rear and side extensions. In considering such an application, the factors that are taken into consideration include the restriction of extensions to terraced properties to 3 metres along a mutual boundary.

Mr Williamson explained that the application did not comply with Policy H1 and was not in compliance with the Householder Development Guide.

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 consultations, Mr Williamson advised there had been no comments received from statutory consultees and one letter of representation from a neighbour.

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

The proposal failed to comply with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan, in that it would have an unacceptable impact on the amenity of the adjoining property, and additionally would not comply with Supplementary Guidance contained in the Householder Development Guide in respect of maximum allowable projection for single storey extensions the rear of terraced properties. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.

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.

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:-**

The proposal failed to comply with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan, in that it would have an unacceptable impact on the amenity of the adjoining property, and additionally would not comply with Supplementary Guidance contained in the Householder Development Guide in respect of maximum allowable projection for single storey extensions to the rear of terraced properties. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.

### **SMALL HOLDINGS, 10 LANG STRACHT, ABERDEEN - 151719**

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

The report explained that the application that was the subject of the review was for detailed planning permission to demolish the existing residential building and replace it with 2 new dwellings, set within the same curtilage. The replacement dwellings would both be single storey in height and identical in design, with a mirrored layout, conjoined by adjacent single garages. Access for both would be via driveway from the north, with vehicular access taken from the existing access road to the east. Proposed finishes would include cream rendered walls, grey pre-cast slip cills; buff coloured basecourse; stained timber linings; Marley Duo Edgemere slates; black uPVC rainwater goods; oak timber effect uPVC window frames and oak timber effect GRP doors. The proposed ratios would be circa 22% and 23%, and each unit would connect to existing services.

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

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

#### **Aberdeen Local Development Plan**

Opportunity Site – OP43 Maidencraig South East

Policy LR1- Land Release

Policy D1 – Architecture & Placemaking

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Policy NE5 – Trees and Woodlands

**Aberdeen City Council Supplementary Guidance**

**Proposed Aberdeen Local Development Plan (2016)**

Opportunity Site OP31 – Maidencraig South East

Policy LR1: Land Release Policy

Policy D1: Quality Placemaking by Design &  
The Maidencraig Masterplan

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 Miller explained that the stated reasons for refusal were as follows:-

The principle of development could not be supported under the Opportunity Site OP43 housing allocation; Policy LR1 'Land Release Policy'; or the approved supplementary guidance; 'The Maidencraig Masterplan' of the Aberdeen Local Development Plan 2012; in that it would introduce additional housing in isolation of the approved Masterplan for the area, in a manner which conflicts with the phased delivery mechanism for the wider development and may subsequently jeopardise provision of the allocation. Furthermore the proposal is considered to fail under Policies D1 and NE5 of the Aberdeen Local Development Plan 2012; in that it proposes additional housing on a rural, isolated site within which additional dwellings would not normally be supported; and would result in the loss of a number of trees; thus it has not been designed with due consideration for its context. Additionally the standard of the access road is insufficient to serve the additional dwelling proposed. The proposals are also found to conflict with the housing allocation under Opportunity Site OP31; Policy LR1: 'Land Release Policy'; Policy D1: 'Quality Placemaking by Design' and 'The Maidencraig Masterplan' supplementary guidance of the proposed Aberdeen Local Development Plan 2016, for the same reasons. In this instance there are no material considerations to outweigh the above policy position, and as such the application was recommended for refusal.

In relation to consultees, Mr Miller advised that comments had been received from the Roads department, a statutory consultee, in regards to initial objection on the basis that further information would be required to allow a full and informed evaluation. It was noted that the Council's Roads Engineer had noted potential concerns relating to the existing access road, which appeared to serve 5 existing units including the application site.

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Members then asked a number of questions of Mr Miller. In regards to questions about road issues, Mr Miller explained that there are only four dwellings that are served by the access road and not five as stated.

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.

The Local Review Body therefore unanimously agreed to **overturn** the decision of the appointed officer and **grant** 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:-**

It was not considered contrary to Policy LR1 'Land Release Policy'; nor the approved supplementary guidance; 'The Maidencraig Masterplan' of the Aberdeen Local Development Plan 2012; Furthermore the LRB did not consider that the proposal was contrary to Policies D1 and NE5 of the Aberdeen Local Development Plan 2012; The LRB did not consider that the proposals conflicted with the housing allocation under Opportunity Site OP31; Policy LR1: 'Land Release Policy'; Policy D1: 'Quality Placemaking by Design' and 'The Maidencraig Masterplan' supplementary guidance of the proposed Aberdeen Local Development Plan 2016.

Approval of the application was subject to the following conditions.

(1) 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.

(2) That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species

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similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority - in the interests of the amenity of the area.

(3) 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 consents 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 trees adjacent to the site during the construction of the development.

(4) Any tree work which appears to be necessary during the implementation of the development shall not be undertaken without the prior written consent of the planning authority - in order to preserve the character and visual amenity of the area.

(5) 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.

(6) 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 entire development 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.

**6 GOLDEN SQUARE, ABERDEEN - 151103**

3. The Local Review Body then considered the third 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.

At this juncture, the Chairperson explained that in respect of this review, it was noted that the documents which members had before them which were submitted with the Notice of Review, in comparison to the plans submitted with the initial application, proposed an alteration to the initial planning application which was considered by the

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original planning officer. The Chairperson drew members attention to Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 as amended:-

“a party to the proceedings is not to raise any matter which was not before the appointed person at the time the determination reviewed was made unless that party can demonstrate (a) that the matter could not have been raised before that time or (b) that it’s not being raised before that time was a consequence of exceptional circumstances.”

On this basis, the Chairperson advised that the Local Review Body cannot consider the revised plans which have been submitted with the Notice of Review and must determine it on the basis of the original proposal. The clerk indicated that the agent had been made aware of the situation and she had not received any comments back from the agent. As a result, the Local Review Body progressed with considering the original application.

Mr Evans explained that the application which was the subject of the review was for detailed planning permission for the change of use of the office building and conversion to 13 flats, the installation of replacement of windows, and the re-cladding of the rear (unlisted) part of the building. It was noted that the floorplans show three flats on the lower ground with space for bin and cycle storage on the lower ground, three flats on the ground, first and second floor with an additional one flat spread over the first and second floor. All flats would be two bedrooms and the building would have two accesses, one off Golden Square, with a second entrance off Lindsey Street to the side. No parking or external amenity space would be provided. All windows in the building would be replaced, and the rear of the building would be re-clad in ‘Trespa’ cladding.

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.

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:-

**Scottish Planning Policy****SHEP (Scottish Heritage Environment Policy)****Aberdeen Local Development Plan**

H2 -: Mixed Use Areas: Where new housing is proposed, a satisfactory residential environment should be created, which should not impinge upon the viability or operation of existing businesses in the vicinity.

H5 – Affordable Housing: Housing developments of five units or more are required to contribute no less than 25% of the total number of units as affordable housing.

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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 will be applied:

- Privacy shall be designed into higher density housing;
- Residential development shall have a public face to a street and a private face to an enclosed garden or court;
- All residents shall have access to sitting-out areas;
- Individual flats shall be designed to make the most of opportunities offered by the site for views and sunlight.

D3 – Sustainable and Active Travel: New development will be designed in order to minimise travel by private car, improve access to services and promote healthy lifestyles by encouraging active travel.

D5 – Built Heritage:

Proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

I1 – Infrastructure Delivery and Developer Contributions:

Where development either individually or cumulatively will place additional demands on community facilities or infrastructure, the Council will require the developer to meet or contribute to the cost of providing, or improving such infrastructure or facilities.

R6 – Waste Management Requirements for New Development:

Housing developments should have sufficient space for the storage of residual, recyclable and compostable wastes. Flatted developments will require communal facilities that allow for the separate storage and collection of these materials.

T2 – Managing the Transport Impact of Development:

New developments will need to demonstrate that sufficient measures have been taken to minimise the traffic generated.

### **Proposed Aberdeen Local Development Plan**

The following policies substantively reiterate policies in the adopted local development plan as summarised above:

H2 – Mixed Use Areas (H2 – Mixed Use Areas)

H5 – Affordable Housing (H5 – Affordable Housing)

D1 – Quality Placemaking by Design (D1 – Architecture and Placemaking and D2 – Design and Amenity)

D4 – Historic Environment (D5 – Built Heritage)



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I1 – Infrastructure Delivery and Planning Obligations (I1 – Infrastructure Delivery and Developer Contributions) T2 – Managing the Transport Impact of Development (T2 – Managing the Transport Impact of Development)  
 T3 – Sustainable and Active Travel (T3 – Sustainable and Active Travel)  
 R6 – Waste Management Requirements for New Developments (R6 – Waste Management Requirements for New Developments)

### Supplementary Guidance

Harmony of Uses Supplementary Guidance: Sets out there is a presumption in favour of conversion of underused business accommodation within the city centre provided a good level of residential amenity can be achieved. Transport and Accessibility Supplementary Guidance: Provides guidance on car and cycle parking standards, and car-free developments. Repair and Reinstatement of Windows Technical Advice Note: Sets out criteria as to the repair and replacement of windows in listed buildings.

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 consultees, Mr Evans explained that no objections had been received from statutory consultees. A letter of support was received from the local Community Council.

Mr Evans explained that the stated reasons for refusal were as follows:-

The proposed development would not be acceptable as no detailed drawings of all proposed windows have been submitted, and the replacement of all windows has not been justified as it has not been satisfactorily demonstrated that the windows in the side elevation are beyond economic repair. As such, due to this lack of information and justification, it is considered that the impact of the proposal on the historic fabric of the category B listed building cannot be thoroughly assessed. Furthermore, the use of grey Trespa for recladding the rear extension is considered of an insufficient quality and would detract from the character and appearance of the grade B listed building and the Union Street Conservation Area. This is contrary to Scottish Planning Policy, Scottish Historic Environment Policy, policy D5 (Built Heritage) of the Aberdeen Local Development Plan, policy D4 (Historic Environment) of the Proposed Local Development Plan, and the Repair and Replacement of Windows and Doors Technical Advice Note. The proposed residential development would not be acceptable as it would provide an unacceptable level of residential amenity for all units. The outlook and amount of natural light would be severely restricted for units 1 and 6 due to them being below pavement level, whilst bedroom 2 of units 6, 8, 10 and 12 would look out over an internal lightwell, which would unacceptably limit their outlook and natural light. The proposal therefore fails to

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comply with policy D2 (Design and Amenity) of the Aberdeen Local Development Plan and policy D1 (Quality Placemaking by Design) of the Proposed Local Development Plan. In addition, the proposal is not acceptable, as it would fail to provide sufficient secure and covered cycle spaces, which is especially important as the development is promoted as a car-free development. The proposal therefore fails to comply with policies T2 (Managing the Transport Impact of Development) of the Aberdeen Local Development, policy T2 (Managing the Transport Impact of Development) of the Proposed Local Development Plan and the Transport and Accessibility Supplementary Guidance.

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.

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:-**

The proposed development is not acceptable as no detailed drawings of all proposed windows have been submitted, and the replacement of all windows has not been justified as it has not been satisfactorily demonstrated that the windows in the side elevation are beyond economic repair. As such, due to this lack of information and justification, it is considered that the impact of the proposal on the historic fabric of the category B listed building cannot be thoroughly assessed. Furthermore, the use of grey Trespa for recladding the rear extension is considered of an insufficient quality and would detract from the character and appearance of the grade B listed building and the Union Street Conservation Area. This is contrary to Scottish Planning Policy, Scottish Historic Environment Policy, policy D5 (Built Heritage) of the Aberdeen Local Development Plan, policy D4 (Historic Environment) of the Proposed Local Development Plan, and the Repair and Replacement of Windows and Doors Technical Advice Note. The proposed residential development is not acceptable as it would provide an unacceptable level of residential amenity for all units. The outlook and amount of natural light would be severely restricted for units 1 and 6 due to them being below pavement level, whilst bedroom 2 of units 6, 8, 10 and 12 would look out over an internal lightwell, which would unacceptably limit their outlook and natural light. The proposal therefore fails to comply with policy D2 (Design and Amenity) of the Aberdeen

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Local Development Plan and policy D1 (Quality Placemaking by Design) of the Proposed Local Development Plan. In addition, the proposal is not acceptable, as it would fail to provide sufficient secure and covered cycle spaces, which is especially important as the development is promoted as a car-free development. The proposal therefore fails to comply with policies T2 (Managing the Transport Impact of Development) of the Aberdeen Local Development, policy T2 (Managing the Transport Impact of Development) of the Proposed Local Development Plan and the Transport and Accessibility Supplementary Guidance.

- **Councillor Ramsay Milne - Chairperson**