

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 20 January 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne , Chairperson; and Councillors Donnelly, Lawrence and Jean Morrison MBE (for items 3).

The agenda and reports associated with this minute can be found at:-
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MI d=4112&Ver=4>

1 BIRCH ROAD - 151555

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 Gareth Allison, 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 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 Allison explained that the application which was the subject of the review was for the erection of a single storey extension to the front of an existing dwelling house on the corner of Birch Road and Rowan Road. Mr Allison explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes.

Mr Allison advised that the site referred to comprised a 2 storey end-terraced dwellinghouse and the corner-plot nature of the site means that the dwelling is slightly unorthodox in that it has a dual-frontage onto both streets and does not have a rear garden area, with both its southern and western elevations being bound by adjoining terraced properties. The front garden area is entirely paved with lock-block paving stones and the dwelling has an existing porch and front access door on its northern principal elevation.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
20 January 2016

Mr Allison explained that permission is sought for the erection of a conservatory extension to the eastern elevation of the dwelling and the extension would project 3.99m out from the existing dwelling with a width of 3.98m. the extension would have a hipped, glazed roof with a ridge height of 3.9m and an eaves height of 3m. it would be predominantly glazed on each of its three elevations and would be finished with brick walls.

It was noted that planning permission was granted in 1992 for the erection of a front porch on the dwelling's northern elevation and for the erection of garden walls.

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

Policy H1 – Residential Areas

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it (1) does not constitute over development, (2) does not have an unacceptable impact on the character of amenity of the surrounding area and (3) complies with the Supplementary Guidance on Householder Development.

Supplementary Guidance – Householder Development Guide

Rear and side extensions – Grouped Terraces – extensions should not project forward of any established building line

Front extensions/porches – the Council has developed the practice, when considering proposals for porch extensions in front of a formal building line, of limiting such structures to the minimum size necessary for protection from storms.

Daylight/sunlight calculations – where a proposal is not able to satisfy the requirements of the relevant test, it will then be appropriate for officers to consider other factors relevant to the likely impact on amenity.

Privacy – assessment of privacy within adjacent dwellings will therefore focus upon the context of a particular development site, taking into account various factors.

Proposed Aberdeen Local Plan

Policies D1 and H1 of the Proposed Aberdeen Local Development Plan substantively reiterate the above policies of the Adopted Local Plan.

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) required that were, in making any determination under the planning acts, regard was to be had to the provisions of the development plan and that determination

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
20 January 2016

should be made in accordance with the plan, so far as material to the application, unless material considerations indicated otherwise.

Mr Allison advised that one letter of objection was received and no comments were received from statutory consultees.

Mr Allison explained that the stated reason for refusal was as follows:-

By virtue of extending beyond the eastern elevation of the dwelling, which forms part of a uniform building line, the proposed extension would disrupt the uniformity and integrity of the terrace and would therefore have a significant detrimental impact on the visual character of the area and result in the overdevelopment of the site. On the basis of the above, the proposal fails to demonstrate due regard for its context. It is clear that the proposal is contrary to Policies D1 (Architecture and Placemaking) and H1 (Residential Areas) of the Aberdeen Local Development Plan and there are no material considerations which otherwise override the relevant policies. The proposed development would be contrary to the relevant supplementary guidance as contained within the Council's Householder Development Guide as it would result in an extension which projects beyond an established building line. It would create an unacceptably adverse impact upon visual amenity and character of the street scene.

Members then asked a number of questions of Mr Allison.

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.

Members unanimously agreed that the proposal was contrary to Policy H1 of the Local Development Plan and to the Supplementary Guidance Householder Development Guide. The Local Review Body therefore agreed unanimously 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 proposal is contrary to Policies D1 (Architecture and Placemaking) and H1 (Residential Areas) of the Aberdeen Local Development Plan and there are no material considerations which otherwise override the relevant policies. The proposed development would be contrary to the relevant supplementary guidance as contained

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

20 January 2016

within the Council's Householder Development Guide as it would result in an extension which projects beyond an established building line. It would create an unacceptably adverse impact upon visual amenity and character of the street scene. Also by virtue of extending beyond the eastern elevation of the dwelling, which forms part of a uniform building line, the proposed extension would disrupt the uniformity and integrity of the terrace and would therefore have a significant detrimental impact on the visual character of the area and result in the overdevelopment of the site. On the basis of the above, the proposal fails to demonstrate due regard for its context.

109 SPITAL - 150870

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 Robert Forbes and 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.

At this juncture, Mr Forbes advised that there was an error in regards to the boundary lines on the map which was before members and also an administrative error had occurred in relation to the notice received by the agent. The wrong policy was stated and it should be Policy H2 (mixed use) that was contained in the notice and not Policy H2.

Mr Forbes explained that the application which was the subject of the review was for a change of use from dwelling to house of multiple occupation and associated external alterations at 109 Spital Aberdeen. Mr Forbes explained that he had checked the submitted Notice of Review and found it be valid and submitted within the relevant timeframes.

Mr Forbes explained that the site referred to comprised a two storey detached dwellinghouse, located to the rear of 111-113 Spital between the Spital and Froghall View, and within the Old Aberdeen Conservation Area. The property itself has no street frontage, although it is visible from Froghall View, access is taken via a flight of steps from the Spital. The proposal seeks planning permission for a material change of use of the property, to allow use as a House in Multiple Occupation (HMO) and this would allow more than 5 unrelated persons to live in the premises together. The proposal also involved minor alterations to the external appearance of the building by way of blocking up the existing window and door at ground floor level and forming a new door on the eastern elevation. The proposal would include four bedrooms, two bathrooms and a store at first floor level and two bedrooms, a shower room, store, utility room and kitchen area/living room at ground floor level.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
20 January 2016

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

National Policy and Guidance

Scottish Planning Series – Planning Circular 2/2012 (Houses in Multiple Occupation: Guidance on Planning Control and Licensing): states that planning authorities should be mindful of the potential impact that concentration of HMO properties may have on the amenity of the area. Essentially, it encourages policies being put in place in order to ensure there are not an over-concentration of HMO properties in particular locations.

Aberdeen Local Development Plan -

Policy T2: Managing the Transport Impact of Development: states that new developments will need to demonstrate that sufficient measures have been taken to minimise the traffic generated.

Policy D1: Architecture and Placemaking: states that, to ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting.

Policy D5: Built Heritage: proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy.

Policy H2: Mixed Use Areas: states that development, or change of use within Mixed Use Areas must take account the existing uses and character of the surrounding area and avoid undue conflict with adjacent land uses and amenity.

Proposed Local Development Plan

- Policy T2: Managing the Transport Impact of Development;
- Policy D1: Quality Placemaking by Design;
- Policy D4: Historic Environment
- Policy H2: Mixed Use Areas

Supplementary Guidance

Householder Development Guide – Houses in Multiple Occupation: This guidance sets the thresholds at which a house or flat will no longer be considered to be in domestic use and will thus be treated as a HMO, for planning purposes. Having identified where such changes of use take place, it is then necessary to set out the factors which will be considered in assessing any such application. These include, but are not limited to:

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
20 January 2016

1. Any adverse impact upon pedestrian or road traffic safety as a result of increased pressure on car parking;
2. Significantly adverse impact upon residential amenity for any reason. This may include, but not be limited to, adequate provision of refuse storage space, appropriate provision of garden ground/amenity space, and an appropriate level of car parking; and
3. An excessive concentration of HMOs in a given locality, cumulatively resulting in a material change in the character of that area. Such considerations will be assessed in consultation with the Council's HMO Unit within the Housing & Environment Service, who hold relevant information on the location of existing licensed HMO properties. Where it is not practicable for dedicated car parking to be provided alongside the development, a proposal must not exacerbate existing parking problems in the local area.

Technical Advice Note: Repair and Replacement of Windows and Doors

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 Forbes advised that objections had been received from Roads Development Management and Old Aberdeen Community Council. The Roads Development Management Team had objected to the application on the basis that it fails to provide any off-street parking. Whilst there is no parking standard for HMO's, forthcoming draft supplementary guidance requires 0.5 spaces per bedroom, meaning there would be a shortfall of 3 parking spaces against this measure. They noted that whilst there was parking on the Spital, there is an existing high demand for spaces and parking is at a premium. Cycle parking should also be provided within the curtilage of the property and this has not been provided however it was noted that this matter could be controlled via an appropriate planning condition.

In regards to issues raised by the Old Aberdeen Community Council, various issues they raised included:-

- The concentration of HMO's in the surrounding area
- Overprovision in the area
- Parking issues

Mr Forbes explained that the stated reason for refusal was as follows:-

The change of use of the residential property to a House of Multiple Occupation (HMO) fails to provide any parking as part of the development in an area where

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

20 January 2016

on-street parking is at a premium and would result in the exacerbation of parking problems in the surrounding area, therefore having an adverse effect on the amenity of the established residential area as well as road safety. The proposal change of use would also see an unacceptable material change of use of the surrounding residential area. In addition, the HMO fails to provide sufficient useable amenity space. Accordingly, the change of use to a House of Multiple Occupation fails to accord with Policies H2 (Residential Areas) and T2 (Managing the Transport Impact of Development), as well as the requirements of the Council's Supplementary Planning Guidance – Householder Development Guide.

The proposal also fails to accord with the general principles of Policies Policy T2 (Managing the Transport Impact of Development) and H2 (Mixed Use Areas) of the proposed local development plan.

The Local Review Body then asked a number of questions of Mr Forbes and the Chairperson confirmed that Members had taken into consideration all of the documents which were before them today in respect of this review.

At this point, the Local Review Body considered whether it 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.

Following discussion of the application, members agreed **unanimously** 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:-

- (1) The change of use of the residential property to a House of Multiple Occupation (HMO) failed to provide any parking as part of the development in an area where on-street parking is at a premium and would result in the exacerbation of parking problems in the surrounding area, therefore having an adverse effect on the amenity of the established residential area as well as road safety.
- (2) The proposal change of use would also see an unacceptable material change of use of the surrounding residential area. In addition, the HMO fails to provide sufficient useable amenity space. Accordingly, the change of use to a House of Multiple Occupation fails to accord with Policies H2 (Residential Areas) and T2 (Managing the Transport Impact of Development), as well as

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

20 January 2016

the requirements of the Council's Supplementary Planning Guidance – Householder Development Guide.

- (3) The proposal failed to accord with the general principles of Policies Policy T2 (Managing the Transport Impact of Development) and H2 (Mixed Use Areas) of the proposed local development plan.

OLDTOWN FARM PETERCULTER - 150710

At this juncture, Councillor Jean Morrison MBE, replaced Councillor Donnelly as a member of the Local Review Body.

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

Mr Lawrence indicated that the application that was the subject of the review was for the erection of a dwellinghouse at OldTown Farm Peterculter. Mr Lawrence explained that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes.

Mr Lawrence advised that OldTown Farm is an existing farm complex comprising of a substantial two storey granite and slate farmhouse, a pair of semi-detached one and a half storey dwellings, a converted bothy and various large agricultural buildings all set around an informal large area of hardstanding. The complex is set in a rural location in the Green Belt and accessed via a narrow single lane road. The Peterculter Golf Club course runs to the east of the farm, although it is separated by fields, with the club house and parking area located to the north east. The site subject of this application is a grassed area measuring approximately 68.5m by 21.5m and extends to an area of approximately 1472m². It is fenced off from other agricultural fields by a post and wire fence and there is currently a very small single storey stone structure with a tiled hipped roof. Young trees have been planted along the boundary with the area of hardstanding and the access road.

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

PLANNING POLICY

National Policy and Guidance

Scottish Planning Policy:

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

20 January 2016

Paragraphs 49 and 52: Sets out the Scottish Government's approach towards development in the Green Belt. The purpose of Green Belts is to support the spatial strategy in a local development plan by directing development to the most appropriate locations and supporting regeneration, protecting and enhancing the character, landscape setting and identity of the settlement and protecting and providing access to open space. The following types of development could be considered appropriate:

- Development associated with agriculture (including the reuse of agricultural buildings;
- Development associated with woodland and forestry;
- Development associated with horticulture;
- Recreational uses compatible with an agricultural or natural setting;
- Essential infrastructure;
- Development meeting a national or established need, if no other suitable site is available;
- Intensification of established uses subject to the development being of a suitable scale and form.

Aberdeen Local Development Plan

NE2 – Green Belt: No development will be permitted in the green belt for purposes other than those essential for agriculture, woodland and forestry, recreational uses compatible with an agricultural or natural setting, mineral extraction or restoration or landscape renewal.

Proposed Aberdeen Local Development Plan

Policy NE2 (Green Belt) substantively reiterates policy NE2 (Green Belt) in the Adopted Local Development Plan as summarised above.

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

In relation to consultations, Mr Lawrence advised that an objection was received from the Culter Community Council on the following grounds:-

- No justified need for an additional dwelling as the owner lives at the farmhouse, the only exception might be during lambing season, but this only lasts for two months per year
- The proposal would add to the cluster of buildings at OldTown Farm which already borders on overdevelopment due to the large number of dwellings and agricultural buildings on the site
- The land identified for the dwelling appears very large to be considered as an exception under policy NE2
- The proposed new house would be very prominent in the landscape.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
20 January 2016

Mr Lawrence also highlighted the sites previous long and complex planning history. The main relevant planning applications were the following:-

1. 040126 – construction of a dwelling to replace the existing farmhouse – approved conditionally
2. 031953 – alterations and extensions of old bothy to form a new dwellinghouse – approved conditionally
3. 021663 – change of use of steading to form 2 new dwellings – approved conditionally
4. In addition, during the 1990's three planning applications for the erection of a dwelling were refused.

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

1. The proposal would undermine the principles of controlling development and preventing the construction of additional housing in the Green Belt, leading to the erosion of the character of such areas. This is contrary to the requirements of policy NE2 (Green Belt) of the Aberdeen Local Development Plan and policy NE2 (Green Belt) of the Proposed Local Development Plan as the applicant has failed to demonstrate that the proposed house is required to provide residential accommodation for an essential agricultural worker who must be housed immediately adjacent to Oldtown Farm.
2. The proposal would set an undesirable precedent for applications of a similar nature which would result in the proliferation of additional housing in the Green Belt, which would result in the erosion of the character and appearance of the Green Belt, and the landscape setting of the city.

Members then asked a number of questions of Mr Lawrence. Members enquired whether the applicant could resubmit their application at no additional cost, to include relevant information in regards to staff accommodation which was missing from this application. Members asked if the amount of staff working on the farm could also be confirmed should the application be resubmitted.

At this point, the Local Review Body considered whether it 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.

Following discussion of the application, members agreed **unanimously** 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.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
20 January 2016

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

1. The proposal would undermine the principles of controlling development and preventing the construction of additional housing in the Green Belt, leading to the erosion of the character of such areas. This is contrary to the requirements of policy NE2 (Green Belt) of the Aberdeen Local Development Plan and policy NE2 (Green Belt) of the Proposed Local Development Plan as the applicant has failed to demonstrate that the proposed house is required to provide residential accommodation for an essential agricultural worker who must be housed immediately adjacent to Oldtown Farm.
 2. The proposal would set an undesirable precedent for applications of a similar nature which would result in the proliferation of additional housing in the Green Belt, which would result in the erosion of the character and appearance of the Green Belt, and the landscape setting of the city.
- **Councillor Ramsay Milne – Chairperson**