

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

ABERDEEN, 3 March 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Cameron and Jaffrey.

**The agenda and reports associated with this minute can be found at:-**  
<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MIId=4152&Ver=4>

### **REVIEWS**

#### **FOGGIE COTTAGE, BAILLIESWELLS ROAD, BIELDSIDE - 151542**

1. With reference to article 1 of the minute of the meeting of the Local Review Body of 3 February 2016, the Local Review Body of Aberdeen City Council reconvened on this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for planning permissions for the proposed erection of a 1.5 storey extension to side and rear of existing dwellinghouse, formation of new vehicular access and retrospective change of use of agricultural land to private garden ground at Foggie Cottage, Baillieswells Road, Bielside (P151542).

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 Swanson, as regards the procedure to be followed and also, thereafter, by Ms Lucy Greene, 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 she 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 Swanson, the Assistant Clerk 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.

In relation to the application, the Local Review Body had before it (1) a delegated report by Mr Alex Ferguson, Planning Officer, dated 23 November 2015; (2) the decision notice dated 27 November 2015; (3) plans showing the proposal; (4) planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement; and (6) representations received in respect of the proposal.

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In relation to the site and existing building, the delegated report stated that at present the site had a single storey detached dwellinghouse on the western side of Baillieswells Road, approximately 800m northwest of the suburban northern side of Bieldside. Foggie Cottage sat to the west of Baillieswells Road and immediately to the south of a small access road that serves two other residential properties situated approximately 130m to the west. Agricultural farmland surrounds Foggie Cottage's southern and western boundaries.

The application site encompassed the full 700sqm curtilage of Foggie Cottage as well as a surrounding buffer of land to the south and west which has at some stage in recent years been incorporated into the residential curtilage of Foggie Cottage, without receiving consent for change of use. The additional area of land which had been incorporated into the garden ground of the property equates to circa 820sqm, giving the application site a footprint of approximately 1520sqm.

The single storey cottage was constructed from granite rubble walls and a slate roof, although the walls were coated with a white harl. The circa 55sqm cottage had had numerous single storey extensions added to it, with a 29sqm flat-roofed side extension to the west, an 18sqm flat-roofed extension built off the southern gable end and a 40sqm monopitch-roofed garage extension built on the eastern side of the rear extension. The dwellinghouse, including the various extensions, had a total built footprint of approximately 142sqm.

At present, the cottage was accessed by vehicles from the adjacent access road to the north, which served a driveway and garage situated between the cottage and Baillieswells Road to the east.

The application site was zoned as Green Belt land in the Adopted Aberdeen Local Development Plan and the area of previously agricultural land that had been incorporated into the curtilage of the property was also zoned as Green Space Network.

The delegated report responded to each aspect of the planning application, namely:

- (a) Cottage refurbishment – the proposed alterations to the cottage did not require consent as they constituted Permitted Development.
- (b) Extensions – two extensions were proposed. Firstly, it was proposed to erect a 1½ storey garage extension that would be connected to the southern gable end of the original cottage via a single storey glazed link. The double garage extension would have a rectangular footprint of 65sqm and a pitched roof design with a ridge height 800mm higher than that of the original cottage and a slightly lower eaves height. The garage would sit perpendicular to the cottage, with its gable ends on an east-west axis, rather than the cottage's north-south axis. The extension would be finished with larch timber cladding and dark grey metal sheet roofing. The second extension was proposed for the west of the northern end of the cottage. The extension would be similar in footprint (68sqm) and scale to the garage extension and would also be

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adjoined to the cottage via a single storey glazed link. The extension would have a pitched roof with a similar ridge height to that of the garage, approximately 800mm above that of the cottage. Half of the extension's eastern gable end would project north beyond the northern gable end of the existing cottage. The extension would be finished with a smooth grey cement render and natural roof slates. The extension would incorporate 3 no pitched roof, larch-clad dormers on its south-facing elevation and 2 no rooflights on its northern elevation.

- (c) Formation of new driveway and access onto Baillieswells Road –it was proposed to form a new vehicular access onto Baillieswells Road in the south eastern corner of the site. The access would lead to an area of hardstanding to the south of the proposed garage extension, which would allow for additional off-street parking outwith the garage, as well as ample turning space for cars to exit the property in a forward gear. Both letters of representation received intimated that they felt that this proposal would have a detrimental impact on both the adjacent access road and at the junction of the access road and Baillieswells Road. However, the Council's Roads Development Management team had been consulted on the proposal and had concluded that the access complied with the required visibility splays and would therefore not have a detrimental impact on road safety.
- (d) Retrospective change of use of agricultural land to private garden ground – the change of use retrospectively being applied for related to a c. 10-15m wide 'buffer' to the south and west of the previous curtilage of the dwelling and this equated to approximately 820sqm. This area of land was previously in use as agricultural farmland, part of a much larger surrounding field and archive images showed that the land had been incorporated into the residential curtilage of the property at some point in recent years (since September 2011).

In relation to planning policies which the Members of the Local Review Body should consider, the delegated report 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 (2012):

Policy D1 - Architecture and Placemaking - 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. 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 space, landscaping and boundary treatments, would be considered in assessing that contribution.

Policy D4 - Aberdeen's Granite Heritage - the Council would encourage the retention of granite buildings throughout the City, even if not listed or in a conservation area. Conversion and adaptation of redundant granite buildings would be favoured.

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Policy NE1 – Green Space Network - the Council would protect, promote and enhance the wildlife, recreational, landscape and access value of the Green Space Network. Proposals for development that were likely to destroy or erode the character or function of the Green Space Network would not be permitted.

Policy NE2 – Green Belt - no development would 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. The following exceptions applied to this policy:

- Proposals for development associated with existing activities in the green belt would be permitted but only if all of the following criteria were met:
  - a) the development was within the boundary of the existing activity.
  - b) the development was small-scale.
  - c) the intensity of activity was not significantly increased.
  - d) any proposed built construction was ancillary to what exists.
  
- Proposals for extensions of existing buildings as part of a conversion or rehabilitation scheme would be permitted in the green belt provided:
  - a) the original building remained visually dominant;
  - b) the design of the extension was sympathetic to the original building in terms of massing, detailing and materials; and
  - c) the siting of the extension related well to the setting of the original building.

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

The delegated report stated that the following policies of the Proposed Adopted Local Development Plan substantively reiterated the above corresponding policies of the Adopted Local Development Plan, namely:

- Policy D1 – Quality Placemaking by Design
- Policy D5 – Our Granite Heritage
- Policy NE1 – Green Space Network

In addition, the report highlighted that Policy NE2 (Green Belt) of the Proposed Local Plan also substantively reiterated the corresponding policy of the Adopted Local Plan, but included the provision for replacement dwellings on a one-for-one basis as well as stating that: “All proposals for development in the Green Belt must be of the highest quality in terms of siting, scale, design and materials. All developments in the Green Belt should have regard to other policies of the Local Development Plan in respect of landscape, trees and woodlands, natural heritage and pipelines and control of major accident hazards.”

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Finally, in terms of documents to be considered, the report advised that the Supplementary Guidance – Householder Development Guide, should be considered. The general principles of the supplementary guidance stated that:

1. Proposals for extensions, dormers and other alterations should be architecturally compatible in design and scale with the original house and its surrounding area. Materials used should be complementary to the original building. Any extension or alteration proposed should not serve to overwhelm or dominate the original form or appearance of the dwelling.
  - The built footprint of a dwelling house as extended should not exceed *twice* that of the original dwelling.
  - Single storey extensions to detached dwellings - the maximum dimensions of any single-storey extension would be determined on a site-specific basis.

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.

The stated reason for refusal of planning permission, as detailed in the delegated report, was as follows:

1. The change of use of the previously agricultural land that had been incorporated into the curtilage of the existing dwelling is contrary to Policy NE2 (Green Belt) of the Aberdeen Local Development Plan as it was not within the boundary of the existing activity and the approval of such a change of use could set an undesirable precedent for further such developments in the future, which could lead to the incremental erosion of the Green Belt.
2. The proposed extensions were not considered to relate well to, or be designed with due consideration for, the existing single storey cottage to which they would adjoin. The extensions combined would have a significantly larger footprint than the original building, with higher roof ridge heights and a siting that would serve to visually dominate and overwhelm the cottage. Furthermore, the design and materials of the proposed western extension would not be sympathetic to the character of the original building and its traditional rural vernacular. As such the proposals were considered to be contrary to Policies NE2 (Green Belt) and D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan and the relevant supplementary guidance as contained within the Householder Development Guide. The proposals were also considered to be contrary to the relevant corresponding policies of the Proposed Aberdeen Local Development Plan.

With regards to the view of the applicant's agent in response to the planning officer's decision and the content of the delegated report, with the statement, accompanying the

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Notice of Review the applicant's agent had responded to the concerns raised by the planning officer and had concluded that in his view:

- the proposed extension had been designed to ensure the best possible appearance for the development in relation to the surrounding area, taking into account its current built form and maintaining a quality streetscape viewed by users on Baillieswells Road;
- the siting of the dwelling would also ensure that an adequate level of privacy and residential amenity would be maintained for the occupants by creating a SW facing court;
- the scale, massing, height were appropriate and requisite to delivering modern quality of living sensitive to retaining the existing historic Cottage;
- the proposals display a high standard of design using appropriate materials, textures and colours which were also sensitive to the surrounding area. An adequate amount of private garden space had been provided to serve the new dwellinghouse;
- the proposed new dwellinghouse would respect the natural and built features on the site which were worth of retention, namely stone boundary walls and planting;
- the proposals had incorporated best practice measures in terms of energy efficiency and maximising the potential for solar gain through the use of glazed windows on the elevations and the orientation of the house; and
- the new dwellinghouse would not adversely impact on any important public viewpoints or panoramas and the proposals would not adversely impact on the landscape character of the area.

The agent had also concluded that they considered that the proposals for extending the dwellinghouse complied with the relevant Policies in the Aberdeen Local Plan and would improve the overall appearance of the site.

Thereafter the Local Review Body was addressed by Ms Lucy Greene, Planning Adviser, who advised that she had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes. She added that the applicant had asked that the LRB requested a site visit of the location to provide them with the ability to fully visualise the proposals and their true impact on the existing site context.

Thereafter, she talked Members through the application which was the subject of the review referring to electronic plans where appropriate. Ms Greene advised Members of the relevant planning policies as detailed in the delegated report, as well as the reasons the Planning Officer had refused the application. Thereafter, she referred to the Notice of Review and accompanying statement and advised members of the applicant's view in respect of the Planning Officer's decision as detailed in the accompanying statement. She also highlighted that many of the photos of similar developments submitted by the agent were located in Aberdeenshire and reminded Members that the application was to be determined on the basis of Aberdeen City planning policies.

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In relation to consultations, Ms Greene explained that no consultees had raised any objections and two letters of objection had been received which raised concern about the potential detrimental impact on road safety; highlighted that access/visibility could be compromised if any new boundary wall were any higher the existing wall; intimated that there was a telephone pole situated adjacent to the proposed new build' and advised that site included land not owned by the applicant. She advised that the Roads Development Management Team were satisfied that sufficient visibility splays would be in place for the new access onto Baillieswells Road to ensure that there would not be any detrimental impact on road safety. Furthermore, the agent for the application had confirmed that any new boundary walls would not exceed 1m in height and they would therefore not require planning consent. With regards the comment in respect of the telephone pole, Ms Greene advised that this was not a material planning consideration and it could not be taken into consideration in the determination of the application. Finally, she explained that the planning officer had informed the agent that the proposed site included land not owned by the applicant and the application site boundary was subsequently revised and the neighbours re-notified.

The Local Review Body then asked a number of questions of Ms Greene.

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 members of the Local Review Body therefore agreed that neither a site visit nor a hearing session were required, as members knew the location of the site and felt they had enough information before them.

In respect of the proposed change of use of the previously agricultural land, Councillor Cameron and the Chairperson noted that Policy NE2 (Green Belt) of the ALDP stated that:

"Proposals for development associated with existing activities in the green belt would be permitted but only if all of the following criteria were met:

- a) the development is within the boundary of the existing activity.
- b) the development is small-scale.
- c) the intensity of activity is not significantly increased.
- d) any proposed built construction is ancillary to what exists"

On this basis, both members concurred that they agreed that the retrospective works were contrary to Policy NE2 (Green Belt), as they involved development that was not within the boundary of the existing activity, or the previously existing activity in this case as the works had already been carried out. In addition, they felt that approval could set an undesirable precedent for further proposed developments.

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In relation to proposed extensions, again the Chairperson and Councillor Cameron, having assessed the design and scale of the proposed extensions, alongside the relevant policies, namely: NE2 (Green Belt) and D1 (Architecture and Placemaking), agreed that the extensions combined would have a significantly larger footprint than the original building, which in their view would visually dominate and overwhelm the original cottage and was contrary to both policies NE2 and D1.

Both Councillors added that in their opinion, there had not been any factors set out in the supporting statement which outweighed the application of the planning policies and therefore agreed with the decision of the appointed officer. Both members also highlighted that the three examples of alterations to existing rural cottages referred to by the applicant's agent related to addresses in Aberdeenshire and they iterated that they were determining the application on the basis of Aberdeen City Council planning policies and not Aberdeenshire Councils.

Councillor Jaffrey explained that in her opinion the proposed extensions did not dominate and overwhelm the original cottage which following the refurbishment would see the removal of the white harled external wall finish and therefore would reveal the original granite rubble walls. She appreciated that the refurbishment of the cottage did not require planning consent, but felt that the retention of the original building and refurbishment of this as part of the overall proposal was welcome. She also concurred with the agent that the scale, massing, height were appropriate and requisite to delivering modern quality of living sensitive to retaining the existing historic Cottage and was not contrary to policies NE2 and D1.

Following discussion of the application, two of the three Members agreed that the proposal was contrary to Policies NE2 and D1 of the Local Development Plan. The Local Review Body therefore agreed by majority 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 in which the Local Review Body based this decision were as follows:-**

1. The change of use of the previously agricultural land that had been incorporated into the curtilage of the existing dwelling was contrary to Policy NE2 (Green Belt) of the Aberdeen Local Development Plan as it was not within the boundary of the existing activity and the approval of such a change of use could set an undesirable precedent for further such developments in the future, which could lead to the incremental erosion of the Green Belt; and



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2. The proposed extensions were not considered to relate well to, or be designed with due consideration for, the existing single storey cottage to which they would adjoin. The extensions combined would have a significantly larger footprint than the original building, with higher roof ridge heights and a siting that would serve to visually dominate and overwhelm the cottage. Furthermore, the design and materials of the proposed western extension would not be sympathetic to the character of the original building and its traditional rural vernacular. As such the proposals were considered to be contrary to Policies NE2 (Green Belt) and D1 (Architecture and Placemaking) of the Aberdeen Local Development Plan and the relevant supplementary guidance as contained within the Householder Development Guide. The proposals were also considered to be contrary to the relevant corresponding policies of the Proposed Aberdeen Local Development Plan.

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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 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.

In relation to the application, the Local Review Body had before it (1) a delegated report by Ms Hannah Readman, Planning Officer, dated 18 December 2015; (2) the decision notice dated 18 December 2015; (3) plans showing the proposal; (4) planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement; and (6) a representation received in respect of the proposal.

With regards to the site, the delegated report advised that the application related to a single storey building located on the south side of Seaforth Road, at its junction with Urquhart Lane to the east. The building was currently vacant but had most recently been used as a storage shed for a plumbing business. The surrounding area was designated for residential use within the Local Development Plan.

The report advised that the planning application sought permission for the redevelopment of the site with a block containing eight, 2 bedroom flats set over 4 floors. The building would measure approximately 15.8m in width, 12.4m in depth and 11.5m in height. It would be of a modern design, with a flat roof and 'juliet' balconies to all windows on the first to third floors. Finishes would include a dark grey membrane roof, grey synthetic granite to the ground floor, smooth white render to the middle floors, grey zinc effect cladding panels to the top floor and all windows would be grey uPVC framed. A boundary wall, to be finished with a smooth white render and a concrete cope stone, pillars to a height of 2.3m and the connecting wall of 0.9m with atop 0.9m

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black mild steel railings. Also proposed were: 8 cycle lockers, 11 car parking spaces, 1 motor cycle parking space and a communal bin store located to the east of the site off Urquhart Lane.

In relation to planning policies which the Members of the Local Review Body should consider, the delegated report 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 (2012):

### H1 - Residential Areas

Within existing residential area, proposals for new residential development will be approved in principle if it:

1. Does not constitute over development;
2. Does not have an adverse impact on the character or amenity of the surrounding area;
3. Does not result in the loss of valuable and valued areas of open space.

### 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.

### 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 would 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.

### 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.

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### 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:

H1 – Residential Areas (H1 – Residential Areas)

H5 – Affordable Housing (H5 – Affordable Housing)

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

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**

Transport and Accessibility Supplementary Guidance - provided guidance on car and cycle parking standards, and car-free developments.

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.

The stated reason for refusal of planning permission, as detailed in the delegated report, was as follows:

The proposed site layout was dominated by car parking and an access road and therefore failed to incorporate a usable and high quality sitting out area for residents. The use of Juliet balconies did not constitute an alternative sitting out area and therefore the application was contrary to Adopted Local Development Plan Policy D2: Design and Amenity. The lack of external amenity provision and associated landscaping or soft boundary treatment indicated that the site was being overdeveloped and would therefore have an adverse impact on the character of the wider area, contrary to Adopted Local Development Plan Policies D1: Architecture and Placemaking, H1: Residential Areas and Proposed

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Local Development Plan Policies D1: Quality Placemaking by Design and H1: Residential Areas.

With regards to the view of the applicant's agent in response to the planning officer's decision and the content of the delegated report, with the statement, accompanying the Notice of Review the applicant's agent had responded to the concerns raised by the planning officer and had concluded that in his view:

- The proposed development at 42A Seaforth Road would see the replacement of a deteriorating industrial building with high quality modern flats. This would better complement the local area, which was characterised by residential uses. The current building was incongruous in the streetscape.
- The scheme proposed 11 car parking spaces in order to satisfy parking standards and to meet the needs of future residents. Balancing the requirements of the car and cycling parking and taking into account the urban nature of the area, it was difficult to see how a 'usable high quality sitting out area for the residents' could be realistically achieved on the site. This resulted in the proposal not strictly complying with policy D2 in terms of open space. However what was proposed was a high quality development that was appropriate to, and in keeping with the surrounding area, in a location that would encourage sustainable transportation and living.
- The 50% open space requirement set out in policy D2 of the adopted Local Development Plan had not been delivered in recent developments found along Seaforth Road, where the courtyards were dominated by car parking. This was common for city centre developments and the 50% open space requirement was not realistic for the site at 42A Seaforth Road, which was already constrained by size. The use of juliet balconies represented an innovative solution to provide amenity for residents.

Thereafter, the accompanying statement responded to each of the relevant policies referred to in the delegated report and advised how they were of the view that the proposal met with the policy requirements.

Thereafter the Local Review Body was addressed by Mr Nicholas Lawrence, Planning Adviser, who advised that he had checked the submitted Notice of Review and found it to be valid and submitted within the relevant timeframes. In addition, Mr Lawrence advised that in accordance with the relevant regulation, all matters that the applicant intends to raise in the review should be set out in or accompanying the notice of review, as should all documents, materials and evidence upon which the Applicant intends to rely. In this regard, he explained that the Appeal Statement appended to the Notice Review stated the applicant "noted that the scheme had already been reduced from 10 units to 8, and the scheme would not simply be viable if it were further reduced to 5 units". He went on to advise that no such viability evidence was lodged in the papers by the Appellants and no justification was before the prescribed officer at the time the application was determined. Therefore as no evidence has been produced to

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substantiate this assertion as required and consequently the Local Review Body could not consider the matter of viability in its decision-taking capacity.

Thereafter, he talked Members through the application which was the subject of the review referring to electronic plans where appropriate.

Thereafter Mr Lawrence raised a number of matters regarding the content of the delegated report and the Notice of Review and accompanying statement, which the Local Review Body should be advised on in considering this review, namely:

1. The applicants' quoted precedents of courtyard development dominated by car parking as a reason for permission being forthcoming. Mr Lawrence reminded Members that it was a tenet of planning law that each application was considered on its own merits and not those of other developments. With regard precedent cases, he explained that these should be identical in all respects, however in this regard the quoted cases date from pre 2008 and were all granted permission prior to the 2012 Aberdeen Local Development Plan.
2. The appeal statement stated that the development "makes a significant decrease in density on the site". Mr Lawrence advised that this was factually wrong – density was the number of dwellings on site or buildings, therefore the density increased from 1 to 12 and increase of over 1,000%. There was a reduction in the coverage of the Appeal Site occupied by buildings.
3. The applicants' position was predicated on the belief that any creation of space was a benefit and permission should be forthcoming and that the number of car parking spaces dictated that the amenity space policy position could not be met. Mr Lawrence explained that he would not expect a plumbers store to have open space.
4. The applicants' referred to useable open space, however Mr Lawrence explained that this was not used in the delegated report, nor in any of the planning policies. In addition, he advised that in planning terms, the fact that space was provided where none existed previously did not establish a presumptive right that planning permission has to be granted. He therefore highlighted that the applicants' noted that the scheme fell short of the requirement set in policy D2 and advised that the space created had to be judged not on quantum but also quality.
5. The level of car parking – Mr Lawrence advised that the scheme did not meet the Council's adopted standards and even allowing for this position the scheme did not provide a level of quality space sought by policy D2.
6. Objections – Mr Lawrence advised that the appeal statement stated that there was no objection from third parties, however an objection was received and duly placed before Members.

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The Local Review Body then asked a number of questions of Mr Lawrence during which Mr Lawrence advised that only the two ground floor flats would have access to the garden area and that this position had been confirmed by the applicant's agent in an email on 3 December 2015. Mr Lawrence also confirmed that the Planning Officer was aware of that information when determining the application.

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 Members of the Local Review Body therefore agreed that neither a site visit nor a hearing session were required, as Members knew the location of the site and felt they had sufficient information before them.

The Chair advised that in his view economic viability had been ruled out as a consideration, and that the main aspect was the lack of (a) a usable and high quality sitting out area for residents and (b) the level of external amenity provision at the site. The Local Review Body explored potential options to alleviate the aforementioned concerns during which the potential for a dispensation from the required car parking spaces should the application introduce a charging point or car club space was discussed.

Following discussion of the application, all three Members agreed that the proposal was contrary to Policies D1: Quality Placemaking by Design, D2: Design and Amenity and H1: Residential Areas of the Local Development Plan. The Local Review Body therefore agreed unanimously to **uphold** the decision of the appointed officer and **refuse** the application.

Members also advised that in their view the applicants could submit an alternative proposal which *could* satisfy the requirements of the Local Development Plan policies.

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 in which the Local Review Body based this decision were as follows:-**

The proposed site layout was dominated by car parking and an access road and therefore failed to incorporate a usable and high quality sitting out area for residents. The use of juliet balconies did not constitute an alternative sitting out area and therefore the application was contrary to Adopted Local Development Plan Policy D2: Design and Amenity. The lack of external amenity provision and associated landscaping or soft boundary treatment indicated that the site was

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being overdeveloped and would therefore have an adverse impact on the character of the wider area, contrary to Adopted Local Development Plan Policies D1: Architecture and Placemaking, H1: Residential Areas and Proposed Local Development Plan Policies D1: Quality Placemaking by Design and H1: Residential Areas.

- **COUNCILLOR**                      **RAMSAY**                      **MILNE,**                      **Convener**

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