

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 21 March 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Jaffrey and Lawrence.

**The agenda and reports associated with this minute can be found at:-**

**<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MI d=4180&Ver=4>**

### **FLAT 5, 5 WALLFIELD CRESCENT, ROSEMOUNT, ABERDEEN - P151730**

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 the request for planning permission for the replacement of existing white PVC windows with new PVCU windows to third floor flat at Flat 5, 5 Wallfield Crescent, Aberdeen (ref 151730).

Councillor Milne, as Chairperson, gave a brief outline of the business to be undertaken. He indicated that the Local Review Body would be addressed by the Assistant Clerk, Mr Masson, as regards the procedure to be followed and also, thereafter, by Mr Matthew Easton, 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 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.

Mr Easton explained that the application which was the subject of the review was for the replacement of existing white PVC windows with new PVCU windows to a third floor flat located within a traditional tenement in the Rosemount and Westburn Conservation Area.

It was noted that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes.

Mr Easton advised that detailed planning permission had been sought to replace the existing white PVC windows with new white PVC windows which have a different arrangement. He indicated that although the principle of replacing the windows was considered acceptable, the application was refused by officers as it was considered that the replacement window arrangement would impact significantly on the uniform

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appearance of the windows in the building and therefore fail to preserve or enhance the character of the conservation area. This was considered to be contrary to Scottish Planning Policy, Scottish Historic Environment Policy, Policy D5 of the Aberdeen Local Development Plan and the Council's supplementary guidance on the replacement of windows and doors.

Mr Easton indicated that the appellants argued that the proposal would provide enhanced safety as the new windows would meet current building regulations, whereas the existing do not. It was also argued that there was already a variety of window styles in the street and that this does not detract from the visual appearance of the area.

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

Local Development Plan

**Policy H1** on residential area states that, householder development will be approved in principle if it does not have an unacceptable impact on the character or amenity of the surrounding area.

**Policy D5** on Built Heritage states that development affecting conservation areas will only be permitted if they comply with Scottish Planning Policy.

In turn **Scottish Planning Policy** says that proposals for development within conservation areas should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance should be treated as preserving its character or appearance.

The Councils **Technical Advice Note** on windows and doors and Historic Environment Scotland's guidance state that where there is no alternative to the replacement of windows, they should be replaced in an environmentally sensitive way in keeping with the character or the original building and quality of the design.

The **conservation area appraisal** for Rosemount acknowledges that the uniformity window arrangements within tenements in Rosemount has largely been lost and therefore the replacement of non-traditional windows with sash and case windows is not expected as is the case in other conservation areas. It goes on to say that carefully matching new windows to the most prevalent and appropriate existing windows would enhance a tenement. This would assist in creating a degree of uniformity in terraces thereby preserving and enhancing the character of the area.

Policies within the Proposed Aberdeen Local Development Plan 2015 reiterate Policy D5 and H1 do not introduce any differing considerations.

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Finally, Mr Easton advised that in assessing the proposal it was suggested that the review body consider whether the proposed replacement windows enhance, preserve or harm the character of the conservation area by altering the uniform appearance of the window arrangement.

In relation to consultations, the report which was included within the agenda had advised that no consultees had raised any observations and that no letters of objection had been received.

The report advised that the stated reason for refusal of planning permission was as follows:

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement windows do not enhance the character of the Rosemount Conservation Area. The proposed window arrangement impacts significantly on the current uniform fenestration and contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland’s guidance - Managing Change in the Historic Environment;
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the character of the area; and
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

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

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 hearing session nor further written representations were required, as members felt they had enough information before them.

Members unanimously upheld the decision of the appointed office to 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 in which the Local Review Body based this decision were as follows:-**

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement windows do not enhance the character of the Rosemount Conservation Area. The proposed window arrangement impacts significantly on the current uniform fenestration and contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland’s guidance - Managing Change in the Historic Environment;
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the character of the area; and
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

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2. The Local Review Body then considered the second request for a review. The Chairperson advised that the LRB would again be addressed by Mr Matthew Easton and reminded members that Mr Easton 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 Easton would not be asked to express any view on the proposed application.

Mr Easton explained that the application which was the subject of the review was virtually identical to the previous application, in so far as it was for the replacement of existing white PVC windows with new PVCU windows to a third floor flat located within a traditional tenement in the Rosemount and Westburn Conservation Area.

It was noted that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes.

Mr Easton again advised that detailed planning permission had been sought to replace the existing white PVC windows with new white PVC windows which have a different arrangement. He indicated that although the principle of replacing the windows was considered acceptable, the application was refused by officers as it was considered that the replacement window arrangement would impact significantly on the uniform appearance of the windows in the building and therefore fail to preserve or enhance the character of the conservation area. This was considered to be contrary to Scottish Planning Policy, Scottish Historic Environment Policy, Policy D5 of the Aberdeen Local Development Plan and the Council’s supplementary guidance on the replacement of windows and doors.

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Mr Easton again indicated that the appellants argued that the proposal would provide enhanced safety as the new windows would meet current building regulations, whereas the existing do not. It was also argued that there was already a variety of window styles in the street and that this does not detract from the visual appearance of the area.

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

Local Development Plan

**Policy H1** on residential area states that, householder development will be approved in principle if it does not have an unacceptable impact on the character or amenity of the surrounding area.

**Policy D5** on Built Heritage states that development affecting conservation areas will only be permitted if they comply with Scottish Planning Policy.

In turn **Scottish Planning Policy** says that proposals for development within conservation areas should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character or appearance should be treated as preserving its character or appearance.

The Councils **Technical Advice Note** on windows and doors and Historic Environment Scotland's guidance state that where there is no alternative to the replacement of windows, they should be replaced in an environmentally sensitive way in keeping with the character or the original building and quality of the design.

The **conservation area appraisal** for Rosemount acknowledges that the uniformity window arrangements within tenements in Rosemount has largely been lost and therefore the replacement of non-traditional windows with sash and case windows is not expected as is the case in other conservation areas. It goes on to say that carefully matching new windows to the most prevalent and appropriate existing windows would enhance a tenement. This would assist in creating a degree of uniformity in terraces thereby preserving and enhancing the character of the area.

Policies within the Proposed Aberdeen Local Development Plan 2015 reiterate Policy D5 and H1 do not introduce any differing considerations.

Finally, Mr Easton advised that in assessing the proposal it was suggested that the review body consider whether the proposed replacement windows enhance, preserve or harm the character of the conservation area by altering the uniform appearance of the window arrangement.

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In relation to consultations, the report which was included within the agenda had advised that no consultees had raised any observations and that no letters of objection had been received.

The report advised that the stated reason for refusal of planning permission was as follows:

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement windows do not enhance the character of the Rosemount Conservation Area. The proposed window arrangement impacts significantly on the current uniform fenestration and contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland’s guidance - Managing Change in the Historic Environment;
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the character of the area; and
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

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 hearing session nor further written representations were required, as members felt they had enough information before them.

Members unanimously upheld the decision of the appointed office to 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 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:-**

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement windows do not enhance the character of the Rosemount Conservation Area. The proposed window arrangement impacts significantly on the current uniform fenestration and contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland’s guidance - Managing Change in the Historic Environment;
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the character of the area; and
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

**24 MORGAN ROAD, ABERDEEN - 151426**

3. The Local Review Body then considered the third request for a review. The Chairperson advised that the LRB would now be addressed by Ms Lucy Greene and reminded members that Ms Greene 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. Ms Greene would not be asked to express any view on the proposed application.

Ms Greene explained that the property which was the subject of the review was a single storey semi-detached house on a residential street. It was located on Morgan Road, Aberdeen, which is in the area to the south of Rosehill Drive and east of Anderson Drive. The proposal under review was for the building up of the hipped roof to form a straight gable and dormers on the front and rear of the house. The extension would be finished in slate to the roof, UPVC windows and rain water goods and render to the extended gable.

Ms Greene advised that there were no comments from consultees and no objections from neighbours.

Ms Greene indicated that the issues for consideration were the policies within the adopted Aberdeen Local Development Plan and the Supplementary Guidance contained within the Householder Development Guide. The area was zoned under the Residential Areas policy and the proposal is for an extension to a residential house, there are no tensions with policy in terms of the principle.

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Ms Greene explained that Policy R1, refers directly to the Householder Supplementary Guidance, and states that proposals should be approved, only if they accord with the guidance. There are two sections of the Householder Developer guidance that were particularly relevant, those being:-

- Any Existing extensions, dormers or other alterations which were approved prior to the introduction of the supplementary guidance will not be considered by the planning authority to provide justification for a development proposal which would otherwise fail to comply with the guidance set out in the document. This guidance is intended to improve quality of design and effectively raise the design standards and ground rules against which proposals will be measured; and
- With respect to dormers, 'the dormer extension should not appear to dominate the original roof space'.

Ms Greene intimated that detailed policy on dormer design was also contained within the Householder Supplementary Guidance, the dormer complies with this guidance in terms of its design, amount of glazing and relationship to the roof. The tension comes in the judgement as to whether it overwhelms the roof. This was a matter of judgement for members.

In relation to hipped roof extensions, Ms Greene advised that the guidance covers this type of extension and states 'modifying only one half of a hipped roof is likely to result in the roof having an unbalanced appearance. The practice of extending a hipped roof on one half of a pair of semi-detached houses to terminate at a raised gable will not generally be accepted unless the other half of the building has already been altered in this way; or such a proposal would not, as a result of the existing streetscape and character of the buildings therein, result in any adverse impact on the character or visual amenity of the wider area'.

Ms Greene explained that this application was half of a pair of semi-detached houses, with the other house retaining a hipped roof. There would therefore be tensions with the Householder guidance.

Ms Greene indicated that there is a hipped roof extension at number 19 in the area, however this was approved in 2005, which pre-dated the current guidance.

It was noted that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes. The review statement challenged the grounds of refusal in the following terms:-

- In general terms Morgan Road is characterised by a mix of single and two-storey semi-detached dwelling houses. The addition of dormers to create a second level of accommodation is a common feature along the road;
- There exists on the opposite side of the road at No. 19 Morgan Drive an almost identical extension involving the straightening of a hipped gable and the erection of front and rear dormers to that proposed by our client at No. 24 Morgan Drive.



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Numerous other properties within the wider locale have also had similar alterations carried out.

- The examples referred to above, all of which were approved by the Council and considered acceptable in design terms in the recent past provide strong precedents in support of our client's current proposal. They have become established and accepted in the street scene and do not impact adversely on character or amenity.
- There have been no objections to the planning application either from consultees or from third parties.

Ms Greene advised that the applicant referred to a number of properties which have been extended in a similar fashion in the wider area, however some of these were prior to 2000:-

- 19 Morgan Road – permission in 2005
- 9 Cairncry Crescent – 2004
- 12 Rosehill Drive, last permissions were 1988
- 24 Rosehill Drive – permission 1997
- 1 & 6 Hayfield Crescent – 1996 & 2006
- 16 Rosehill Crescent – 2009
- 74 and 86 Hilton Drive – 2009 & 1993

Ms Greene intimated that interpretation of this section of the guidance was a matter for the members of the Local Review Body, however, the point referred to by the applicant would allow planning officers to take into account a situation where there had already been quite a number of such alterations. The degree to which this would apply would be a matter of judgement on the merits of the individual case.

The report advised that the stated reason for refusal of planning permission was as follows:-

The proposed hip to gable extension and subsequent dormers relate to an existing residential use and are in compliance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2012, however the proposal does not comply with Policy D1 (Architecture and Placemaking) of ALDP and the associated 'Householder Development Guide' Supplementary Guidance in that the proposal does not demonstrate due regards for the design and context of the streetscape, and as a result the proposed development would appear out of context and would impose a negative design on the surrounding area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the proposal does not accord with the provisions of the Development Plan and that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.

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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.

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 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 hip to gable extension and subsequent dormers relate to an existing residential use and are in compliance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2012, however the proposal does not comply with Policy D1 (Architecture and Placemaking) of ALDP and the associated 'Householder Development Guide' Supplementary Guidance in that the proposal does not demonstrate due regards for the design and context of the streetscape, and as a result the proposed development would appear out of context and would impose a negative design on the surrounding area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the proposal does not accord with the provisions of the Development Plan and that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.

**- RAMSAY MILNE, Chairperson**

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