

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 26 April 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Dickson and Donnelly.

**The agenda and reports associated with this minute can be found at:-**  
<HTTP://COMMITTEES.ABERDEENCITY.GOV.UK/IELISTDOCUMENTS.ASPX?CID=284&MID=4215&VER=4>

### REVIEWS

#### **7 KING'S GATE, ABERDEEN - 151391**

1. The Local Review Body of Aberdeen City Council met on this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for retrospective planning permission for the proposed erection of a tree house to the rear of the existing dwelling.

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, in regard to the procedure to be followed and also, thereafter, by Mr Andrew Miller, who would be acting as the Planning Adviser to the Body in the 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, 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 Ross McMahon, Planning Officer, dated 3 December 2015; (2) the decision notice dated 4 December 2015; (3) links to online plans showing the proposal; (4) links to online planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant along with an accompanying statement; and (6) representations received in respect of the proposal.

The LRB was then addressed by Mr Miller who explained that the application was for retrospective consent for the erection of an elevated wooden structure, referred to as a tree house, and an associated area of decking to the south-east of the site. The overall height of the erected structure measured approximately 4.8m from ground level and

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

26 April 2016

approximately 2.5m to the timber deck, forming a large timber lined screen which sat on the existing granite boundary wall and measured 4.5m in overall height, with an overall width of 6.7m along the east boundary facing onto the side lane. Mr Miller advised that the structure was constructed primarily in timber, with stained timber linings/cladding used to form screening to the side lane.

It was noted that two letters of representation were received in connection with the application, and the points raised related to the following:-

- (1) That the east wall should be stained/treated in its entirety;
- (2) That the proposal was out of character with the area and adversely affected the privacy of adjacent properties; and
- (3) That the application would set a precedent for similar types of development.

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

The proposal would have a negative impact on the residential amenity of the locality and the Albyn Place/Rubislaw Conservation Area. The proposal failed to comply with the relevant policies of Aberdeen Local Development Plan 2012, namely Policies D1 (Architecture and Placemaking), D5 (Built Heritage), the Council's Supplementary Guidance: Householder Development Guide and therefore H1 (Residential Areas) of the Aberdeen Local Development Plan 2012 by virtue of its overall size, scale and prominence to the street and its impact on the setting of the Category 'B' listed building, as it did not preserve the character and amenity of the Albyn Place/Rubislaw Conservation Area in line with the principles of Historic Scotland's SHEP and the associated Managing Change in the Historic Environment - Setting. On the basis of the above, and following on from the evaluation under policy and guidance, it had been considered that there were no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.

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

Members were then given the opportunity to ask the Planning Adviser any questions on the application. Members asked various questions in regards to privacy aspects to the neighbouring properties, the overall height of the tree house and potential staining of the wood structure.

At this juncture, the Chairperson asked if members were happy to proceed with determining the application. Members felt that they had sufficient information in order to reach a decision and did not require a site visit.

Members unanimously agreed that notwithstanding its retrospective nature, the proposal was considered to be of a suitable scale and sited at a level appropriate to the character of the curtilage of the B-listed house in which it was situated and the

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 April 2016

surrounding Albyn Place/Rubislaw Conservation Area. Accordingly they considered that the proposals complied with the requirements of policies D1 (Architecture and Placemaking), D5 (Built Heritage), the Council's Supplementary Guidance: Householder Development Guide and therefore H1 (Residential Areas) of the Aberdeen Local Development Plan. The proposals were also considered to comply with Historic Environment Scotland's SHEP and associated Managing Change in the Historic Environment - Setting. Members also agreed unanimously to add the following condition to approval of the application:-

- (1) That within two months of the date of the decision, a scheme for staining/painting of the external woodwork of the structure hereby permitted should be submitted to the Planning Authority for agreement in writing and thereafter should be completed in accordance with this scheme - to ensure the development was complementary to the character of the surrounding Conservation Area.

Following discussion of the application, all three Members agreed that the proposal was not contrary to Policies D1, D5, the Council's Supplementary Guidance, Householder Development Guide and H1 of the Local Development Plan. The Local Review Body therefore agreed unanimously to **dismiss** the decision of the appointed officer and **grant** the application.

In coming to their decision, the Local Review Body had regard to the provisions of the Development Plan as required by Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) which required that where, in making any determination under the planning acts, regard was to be had to the provisions of the development plan and that determination should be made in accordance with the plan, so far as material to the application, unless material considerations indicated otherwise.

### **BROOKFIELD, LAND AT MURTLE DEN ROAD, MILLTIMBER - 151376**

2. The Local Review Body then considered the second request for a review, to evaluate the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for planning permission for the proposed demolition of the existing dwellinghouse and erection of three dwellinghouses at Brookfield, Land at Murtle Den Road Aberdeen, 151376.

The Chairperson advised that the LRB would now be addressed by Mr Robert Forbes and 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.

In relation to the application, the Local Review Body had before it (1) a delegated report by Mr Paul Williamson, Planning Officer, dated 9 September 2015; (2) the decision notice (3) online links to plans showing the proposal; (4) online links to planning policies

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

26 April 2016

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.

The LRB was then addressed by Mr Forbes, who explained that the application was for planning permission in principle for the demolition of the existing house and the construction of three new detached houses within the existing curtilage using the existing access point. Mr Forbes outlined that the site extended to 1 Hectare and comprised a detached house and associated garden ground located on the eastern side of Murtle Den Road within the green belt between Milltimber and Bielside. Mr Forbes advised that Murtle Den Road was a privately maintained road which offered no through route, with access and egress via a single point on North Deeside Road, which gave access to 13 substantial detached dwellings, most of which were set within extensive plots in a mature woodland setting. The site was enclosed by mature coniferous tree belts which cast considerable shade, and the tree belt at the southern edge of the site was visible from the A93 on approaching the site from Bielside.

Mr Forbes explained that the applicant considered that the application site no longer warranted green belt designation. However Mr Forbes highlighted that rezoning of the land in question was not a matter which is within the remit of the LRB as it is a matter for the local plan review to consider revision of green belt boundaries.

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

- (1) That the site lay within the Green Belt which was defined to protect and enhance the landscape setting and identity of urban areas and in which there was a presumption against most kinds of development with only limited exceptions. The proposed development did not comply with any of the specified exceptions to the presumption against development within the Green Belt and therefore does not comply with Policy NE2, and could erode the character or function of the Green Space Network thus conflicting with Policy NE1 of the Aberdeen Local Development Plan 2012. If permitted, this application would create a precedent for more, similar developments to the further detriment of the objectives of the Green Belt policy. If approved, the necessary road improvements could also result in a significant impact on the character of the area, through the provision of a widened access road, with the potential loss of a number of trees. Furthermore, the proposal was also considered to be contrary to the Supplementary Guidelines relating to the Sub-division and Redevelopment of Residential Curtilages, in that it would result in the creation of a secondary building line in a backland location which would erode the character and residential amenity of the area.

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

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

26 April 2016

In regards to representations, it was noted that three letters of representation were received, and listed below were reasons which were not covered in the report:-

- (1) The proposal development would challenge the capacity of Murtle Den Road; and
- (2) No negative visual impact.

Members were then given the opportunity to ask the Planning Adviser any questions in regards to the application. Members asked various questions in regards to (1) the tree survey undertaken, (2) drainage; (3) use of the access road; (4) the previous application that had been submitted; (5) green belt; and (6) any material considerations. Mr Forbes advised that in regards to the access road, Murtle Den Road is not controlled by the applicant or the Council and given that the owner of the road had objected to the development, the competency of imposing a condition requiring the road to be upgraded, as requested by the Roads consultee, is questionable. Mr Forbes also indicated that the appellant made reference to a number of approvals in the vicinity of the site previously, however these sites were either not on the green belt or was a site released in the Aberdeen Local Development Plan for a new housing development which was assessed against a different policy context.

At this juncture, the Chairperson asked if members were happy to proceed with determining the application. Members felt that they had sufficient information in order to reach a decision and did not require a site visit.

Councillor Donnelly indicated that the application should be approved in principle conditionally, as each application should be considered on its own merits, and other houses had previously been built on green belt land.

Councillor Dickson indicated that he would vote to uphold the decision due to the land being on the green belt.

Finally Councillor Milne advised that he would vote to uphold the decision as the land sits within green belt land and the planning policies were agreed by Council and remain the policies of the Council.

Following discussion of the application, two of the three Members agreed that the proposal was contrary to policy NE1 and NE2 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.

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

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**  
26 April 2016