

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 28 September 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne (present for all items), Chairperson; and Councillors Boulton (for item 1) Donnelly (for items 1 and 2), Lawrence (item 3) and Jean Morrison MBE (items 2 and 3) .

The agenda and reports associated with this minute can be found at:-
[HTTP://COMMITTEES.ABERDEENCITY.GOV.UK/IELISTDOCUMENTS.ASPX?CID=284&MID=5598&VER=4](http://committees.aberdeencity.gov.uk/ielistdocuments.aspx?CID=284&MID=5598&VER=4)

THE MILL, CLINTERTY - PROPOSED DEMOLITION OF FORMER MILL BUILDING AND ERECTION OF REPLACEMENT DWELLING HOUSE - 160426

1. The Local Review Body (LRB) 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 planning permission for the proposed demolition of the former mill building and erection of a replacement dwelling house at the Mill, Clinterty, Aberdeen, 160426

Councillor Milne as Chairperson gave a brief outline of the business to be undertaken. He indicated that the LRB would be addressed by the Assistant Clerk, Mrs Lynsey McBain as regards the procedure to be followed and also, thereafter, by Mr Robert Forbes 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, Assistant Clerk in regards to 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 LRB had before it (1) a delegated report by Ms Dineke Brasier, Planner, dated 7 April 2016; (2) the decision notice dated 11 August 2016; (3) copies of the plans showing the proposal; (4) links to the planning policies referred to in the delegated report; (5) a letter of representation and (6) the Notice of Review submitted by the applicant's agent along with an accompanying statement and documents.

The LRB was then addressed by Mr Forbes and it was noted that the Notice of Review pertains to the decision of Aberdeen City Council under Delegated Powers of the 11 August 2016 to refuse planning permission to take down the existing mill building and to

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reconstruct it with an element of extension, resulting in a new four bedroom detached dwelling. The building is located in the Green Belt, immediately east of the administrative boundary with Aberdeenshire and the main existing structure/building comprises a part single and part two storey former mill of vernacular style and constructed in granite, with a dual pitched slated roof and rectangular footprint. The site is triangular and located near a 'Y' shaped road junction, connecting the B979 (Skene – Tyrebagger Road) with the C93C Borrowstone Road running between the A944 at Kingsford to the B979.

In regards to consultation comments, Mr Forbes advised that there had been no comments from roads, environmental health or contaminated land unit. The flooding team had advised that further information on surface water drainage proposals was required including design calculations and drawings or a drainage impact assessment. One letter of objection was also received. Mr Forbes also made reference to the relevant planning policies, previous planning history of the site and reason for refusal.

The Grounds of Appeal Statement which accompanies the Notice of Review advised (a) that the building was structurally unsound and would need to be largely rebuilt in places; (b) that it was necessary that the building should be entirely demolished and to rebuild the steading, largely as is, but with the building moved one metre from the south-east boundary which would further reduce any possible over shading or privacy issues between the property and the neighbouring property; (c) that the granite stonework and roof slates were to be salvaged from the existing building and re-used to clad the new build; (d) that the proposal had been designed to suit the existing building with a modern extension out to the west side, as was previously proposed in 2008; and (e) that demolition and rebuilding of the redundant buildings in this case is adequately justified and is backed up by what is shown in the design statement, design drawings, the engineer's structural report and additional documents for the Environmental survey and topographical survey.

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

The principle of the proposal to demolish the existing building and construct a new dwelling would be contrary to policy NE2 (Green Belt) of the Aberdeen Local Development Plan, policy NE2 (Green Belt) of the Proposed Local Development Plan and the Supplementary Guidance: Conversion of Steadings and Other Non-Residential Vernacular Buildings in the Countryside, as it would represent the construction of an additional new dwelling in the Green Belt without any clear and acceptable justification.

The Local Review Body then agreed by majority that the review under consideration should be adjourned in order for a site visit to be conducted in due course.

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12D NELLFIELD PLACE - REPLACEMENT WINDOWS TO FRONT OF FLAT - 160537

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 replacement windows to front of the flat at 12D Nellfield Place Aberdeen, 160537.

The Chairperson advised that the LRB would now be addressed by Ms Lucy Greene and 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.

In relation to the application, the Local Review Body had before it (1) a delegated report by Mr Tom Walsh, Planning Technician; (2) the decision notice dated 22 June 2016; (3) plans showing the proposal; (4) links to the planning policies referred to in the delegated report; and (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement.

Ms Greene advised that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes.

Ms Greene provided a description of the application and advised that the appeal related to the proposed replacement of the existing timber windows with uPVC windows. Ms Greene explained that the property was contained within the Great Western Road conservation area and the application had been approved with a condition attached, which read "that the window(s) hereby approved shall be constructed in full accordance with the detailed cross section(s) submitted and approved shall not exceed 25mm in width at the top and sides of the window opening with the remainder of the frame being concealed behind the masonry window check, unless the planning authority has given prior written approval for a variation – in order to preserve the character of the conservation area." The applicant was appealing the condition.

In regards to planning policies, Ms Greene advised that the Scottish Planning Policy, and policies D5 and H1 were all relevant. Material considerations included the Scottish Historic Environment Policy, The Repair and Replacement of Windows and doors, "Windows" guidance note from Historic Scotland's Managing Change in the Historic Environment series and the proposed Aberdeen Local Development plan.

The Grounds of Appeal Statement which accompanied the Notice of Review advised that (a) a surveyor looked at the property and confirmed that the sides, 15mm of each proposed window would be hidden behind the stone jambs, (b) that at the top of the window, 10mm would be hidden behind the lintel and (c) by their calculations, 53mm of the frame would be visible at the sides and 45mm would be visible at the top.

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The delegate report advised that the stated reason for the application being approved conditionally was as follows:-

that the window(s) shall be constructed in full accordance with the detailed cross section(s) submitted and approved with the application and that the visible part of the outer frame of the front windows hereby approved shall not exceed 25 mm in width at the top and sides of the window opening with the remainder of the frame being concealed behind the masonry window check, unless the planning authority has given prior written approval for a variation - in order to preserve the character of the conservation area. The reason(s) on which the Council has based this decision are as follows:- The proposal is considered to comply with the relevant policies of the Aberdeen Local Development Plan 2012, namely Policies D5 (Built Heritage) and H1 (Residential Areas) in addition to Council's Technical Advice Note: The Repair and Replacement of Windows and Doors; in that the elements of the proposal have been designed to respect the character of the existing building and in addition there would be no significant detrimental impact on the existing visual amenity or character of the Great Western Road Conservation Area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant refusal of the application. The proposed replacement windows would not have a detrimental impact on the character of the Conservation Area, in accordance with Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 (Built Heritage) of the ALDP.

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

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

Members agreed by majority to uphold the decision of the appointed officer to approve the application conditionally.

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:-

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that the condition which was attached with the original approval was acceptable for within a Conservation area.

Informative

The applicant is encouraged to contact the planning authority Development Management Team for conservation advice to discuss details of the work, once further investigation has taken place.

333 UNION STREET - ERECTION OF TEMPORARY MARQUEE WITHIN FORECOURT/ OF BAR/RESTAURANT/CASINO - 160624

3. The Local Review Body then considered the third 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 erection of a temporary marquee within the forecourt of bar/restaurant/casino at 333 Union Street, planning reference 160624.

The Chairperson advised that the LRB would now be addressed by Mr Andrew Miller 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 Ms Sepi Hajisoltani, Planner; (2) the decision notice dated 16 July 2016 (3) plans showing the proposal; (4) links to the planning policies referred to in the delegated report; and (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement.

The LRB was then addressed by Mr Andrew Miller, who advised that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes. Mr Miller explained that the site comprised a former church at the corner of Bon-Accord Street and Union Street and it is located within the Union Street Conservation area. The ground floor of the building is used as a bar/restaurant accessed from Union Street and Langstane Place, whilst the upper floor is a casino accessed from Bon Accord Street. Mr Miller advised that detailed planning permission was sought on a retrospective basis for the erection of the marquee on a temporary basis for three years.

In regards to consultee comments and objections, Mr Miller advised that one letter of objection had been received and it focused on the unacceptable effect on the visual amenity for an important Grade B listed building facing Union Street.

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The Grounds of Appeal Statement which accompanied the Notice of Review advised that (a) the 2005 consents for extensions remain valid as they were implemented, (b) the marquee is a temporary structure that is relatively modest and hidden, (c) it can only be seen when in close proximity and (d) it would contribute towards the aim for City Centre regeneration.

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

due to its inappropriate quality, design and material the temporary structure detracts from the setting and character of the listed building and visual amenity within the wider conservation area by reason of its prominent position in public view on Union Street. 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 Historic Environment Scotland Policy Statement, Scottish Planning Policy, the Aberdeen Local Development Plan and Supplementary Guidance on Temporary Buildings. There are no material planning considerations, including the Proposed Aberdeen Local Development Plan, that would warrant approval of the application.

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

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

Members unanimously overturned the decision of the appointed officer to refuse the application and therefore approved the application conditionally.

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:-

They did not feel that the design and material of the temporary structure detracted from the setting and character of the listed building and visual amenity within the wider conservation area by reason of its prominent position in public view on Union Street, and that the economic benefits of the structure was important.

Condition

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That the temporary marquee hereby granted planning permission shall not remain on the site after a period of three years expiring on 30 September 2019 - that the character and siting of the structure is not such as to warrant its retention for a period longer than that specified in this permission.

Informative

The applicant is advised to note that this permission expires 30 September 2019 due to the nature of the proposal, in accordance with our Supplementary Guidance on Temporary Buildings. The marquee is located on a fairly prominent location within the curtilage of a listed building and within the Union Street Conservation Area. A permanent, purpose built, solution should be sought to provide these facilities. The Planning Authority considers a temporary consent allows the opportunity to explore such a solution and would welcome pre-application discussion on this.

- **Councillor Ramsay Milne, Chairperson**

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