

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 15 December 2016. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Boulton and Donnelly.

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

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MI d=5543&Ver=4>

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

1. With reference to the minute of the meeting of the Local Review Body (LRB) of 28 October 2016, wherein the Members attended a site visit and agreed to defer consideration of the above application in order that they receive further information in the form of written submissions, 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 planning permission for the demolition of a former Mill building and erection of a replacement dwelling house at The Mill, Clinterty.

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, Mr Mark Masson 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 Mr Masson, 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; (6) consultee responses; and (7) the Notice of Review submitted by the applicant's agent along with an accompanying statement and documents.

The LRB also had before it the following written submissions:-

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- confirmation from Aberdeen City Council's Flooding Team on its position regarding the risk of flooding from/of the proposed development and required drainage;
- submission by SEPA of its position regarding the risk of flooding from/of the proposed development and required drainage;
- confirmation from Aberdeen City Council's Roads Team on its view regarding (a) the proposed parking provision, in particular, the potential requirement to reverse out onto a public road and whether there would be any impact on visibility; and (b) the possibility of creating a turning facility within the development; and
- submission from Aberdeen City Council's Environment Policy Team of its position regarding the possible impact on trees from the proposed development.

Mr Forbes referred to the delegated report wherein a description of the site was provided, along with detail of the proposal, relevant planning policies, previous planning history of the site and reason for refusal; and also the statement and submissions by the applicant's agent and the consultee comments and letter of representation received.

Mr Forbes also referred to the additional comments received in the requested submissions.

The Grounds of Appeal Statement which accompanied 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.

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The Local Review Body then agreed that the review under consideration should be determined without further procedure as they had already attended a site visit and did not require any further written representations.

The LRB advised that subject to imposition of conditions, including removal of PD rights to retain control over the architectural design quality of future development at the site, the proposed works were considered to enhance the landscape character of the green belt and accord with the underlying objectives of related planning policy (i.e. local plan policy NE2, and Scottish Planning Policy) through the redevelopment of an existing derelict site in an appropriate manner and delivery of landscape enhancement / renewal. There are particular exceptional circumstances in relation to this case (e.g. the previous approval at the site) which justify approval of the development contrary to the specific wording of green belt policy and the Council's supplementary guidance regarding conversion of steadings.

The Local Review Body therefore unanimously agreed to reverse the decision of the appointed officer to refuse the application and that the application be approved subject to the following conditions (which were provided by the Planning Authority following the meeting):-

CONDITIONS:-

(1) No development shall take place unless a scheme detailing all external finishing materials to the roofs and walls of the buildings hereby approved, including details of the proposed extent / nature / appearance of natural granite / pointing to be used on site has been submitted to, and approved in writing by, the planning authority. Thereafter the development shall be carried out in accordance with the details so agreed.

Reason - in the interests of protection of the landscape setting of the green belt.

(2) No development pursuant to this planning permission shall take place, nor shall any part of the development hereby approved be occupied, unless there has been submitted to and approved in writing by the Planning Authority, a detailed scheme of plot boundary enclosures for the development hereby granted planning permission. The house hereby granted planning permission shall not be occupied unless the said scheme has been implemented in its entirety.

Reason - in the interests of protection of the landscape setting of the green belt.

(3) No development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site. This scheme shall include indications of all existing / proposed ground levels / cross sections, existing landscaped features, and proposed areas of tree/shrub planting including details of plant numbers, densities, locations, species, sizes / stage of

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maturity at planting and proposed establishment / protection measures. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority. For the avoidance of doubt, no spoil / soil mounds / bunds shall be formed.

Reason - in the interests of protection of the landscape setting of the green belt and enhancement of the green space network.

(4) No development shall take place unless a plan showing those trees to be retained on site, and a scheme for their protection during construction works has been submitted to, and approved in writing by, the Planning Authority. No demolition/excavation/construction work shall take place on site unless such scheme as may be approved has been implemented. No materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the Planning Authority. No fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason - in order to ensure adequate protection for the trees on site during the construction of the development.

(5). No development shall take place on site unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority. Thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme.

Reason - in order to safeguard water quality in the adjacent watercourse and to ensure that the development can be adequately drained.

(6) The house hereby approved shall not be occupied unless the proposed private parking / turning area has been modified / adjusted in accordance with a scheme which shall have been submitted to and approved in writing by the planning authority. The house shall not be occupied unless the required car parking / turning areas have been constructed, drained and laid-out in accordance with the approved scheme, or such other drawings as may subsequently be submitted and approved in writing by the planning authority. Such parking areas shall not thereafter be used for any other purpose other than the purpose of access / parking of vehicles ancillary to the development and use thereby granted approval.

Reason - in the interests of public safety / free flow of traffic.

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(7) The house hereby granted planning permission shall not be occupied unless a scheme for the provision / treatment of foul sewerage and provision of mains water supply has been submitted to and approved in writing by the Planning Authority and the said scheme has been implemented in full.

Reason - in the interests of public health and prevention of pollution.

(8) The building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full.

Reason: to ensure that this development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.

(9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by various orders including the Town and Country Planning (General Permitted Development)(Scotland) Amendment Order 2011, no development falling within the following Classes of the Order shall be carried out within the site or the curtilage of the house hereby approved without the prior written approval of the local planning authority: Schedule 1 Classes 1A, 1B, 1C & 1D, 2B, 3A, 3B, 3C and 3E

Reason: In order that the Local Planning Authority can control any further development associated with the approved dwelling, to safeguard the visual character and landscape setting of the green belt.

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.

30-32 CHAPEL STREET - CHANGE OF USE FROM CLASS 1 (SHOP) TO CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) - 161167

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 Change of Use from Class

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1 (Shop) to Class 2 (Financial, Professional and Other Services) at 30-32 Chapel Street, Aberdeen.

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 Mr Ross McMahon, Trainee Planner; (2) the decision notice dated 20 October 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.

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

Mr Miller referred to the delegated report wherein a description of the site was provided, along with detail of the proposal, relevant planning policies, previous planning history of the site and reason for refusal; and also the statement and submissions by the applicant's agent.

Mr Miller outlined the relevant considerations as follows:-

- Aberdeen Local Development Plan 2012 (C1 – seeks to ensure the city centre remains a regional centre and is the preferred location for the vision of the city centre; H2 – Mixed Use Areas – new uses should be compatible with established neighbouring uses); and
- Proposed Aberdeen Local Development Plan 2015 (C1 and NC1 and City Centre Masterplan).

The Local Review Body then asked a number of questions of Mr Miller during which, he clarified the position in relation to the potential uses of the premises.

The Grounds of Appeal Statement which accompanied the Notice of Review advised (a) that the appointed officer had not applied policy correctly nor had he considered all the information submitted with the application; (b) that the appointed officer failed to deal with the application in a way that is consistent with that for another recent application in Chapel Street, Aberdeen; and (c) that the property lies within the city centre, no expressions of interest had been received for continuing Class 1 retail use and the proposal would ensure that the property was occupied and in doing so, will make a contribution to the viability and vitality of the area.

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

The proposal is considered to generally comply with Policy H2 (Mixed Use Areas), however, fails to comply with Policy RT4 (Local Shops) of the adopted Aberdeen Local Development Plan. The units are in occupation and no evidence has been submitted of their marketing to demonstrate a lack of demand for continued retail use of the premises nor has any information been submitted to demonstrate that the proposed use would cater for a local need. No adequate reasons for setting aside the above policies and guidance have been identified and the other material considerations do not justify approval of the proposal. Approval of this application would result in an undesirable precedent for similar proposals that would cause further erosion of retail uses. 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 approval of the application.

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.

The Local Review Body unanimously agreed to reverse the decision of the appointed officer to refuse the application and that the application be approved.

The LRB agreed that the proposed use is considered to comply with Policy C1 (City Centre Development – Regional centre) maintaining the vitality and viability of the unit in the city centre and the wider area and also generally complies with Policy H2 (Mixed Use Areas) on the basis that it is compatible with existing neighbouring uses.

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**

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