

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 8 February 2017. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Milne, Chairperson; and Councillors Lawrence and Nicoll.

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)

BROADFOLD ROAD ABERDEEN - ERECTION OF FAST FOOD RESTAURANT WITH ASSOCIATED DRIVE-THRU, INFRASTRUCTURE WORKS AND LANDSCAPING - 160623

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 erection of a fast food restaurant with associated drive-thru, infrastructure works and landscaping at Broadfold Road Aberdeen.

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 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 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 Jane Forbes, Planner; (2) the decision notice dated 21 December 2016; (3) copies of the plans showing the proposal; (4) links to the planning policies referred to in the delegated report; (5) six letters of representation; and (6) the Notice of Review submitted by the applicant's agent along with an accompanying statement.

The LRB was then addressed by Ms Greene who advised that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes.

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Ms Greene advised that the application sought full planning permission for the erection of a fast food restaurant and drive thru facility, with associated car parking and landscaping, and the proposed development would comprise a single storey, 275m², flat-roofed building located within the northern section of the site, with vehicle access for the drive-thru facility running anti-clockwise along the boundary of the site, and the drive-thru collection point located along the northern elevation of the building. The 34 proposed parking spaces would be located centrally within the site.

In regards to consultees and objections, Ms Greene advised that the roads department objected to the application due to various reasons. They felt that the applicant could not effect change on the existing road layout and there was not the opportunity to improve the existing junction arrangement which functions with the existing traffic demands. Also the increased number of vehicle movements by the addition of a new source of traffic generation at peak times of demand would result in additional queues and the queues which are likely to be formed would create a road safety risk for traffic using the A90 Ellon Road. Environmental Health had asked for conditions to be attached should it be approved, and the flooding department asked for further details on drainage. Bridge of Don Community Council objected to the application on the grounds of increased traffic and also littering of the site. There were also two other letters of objections.

The Grounds of Appeal Statement which accompanied the Notice of Review advised that (a) the site, a former car showroom, has been marketed since 2009 with no material interest, (b) planning consent was obtained in 2012 for Commercial use on the site in line with the Local Development Plan and has been marketed as such since 2012, with no market interest, (c) the site is zoned as BI1 area in the LDP and this policy allows for different use types to be located in these areas, (d) the proposed use is committed to creating new employment, career development opportunities, and community benefits, (e) the site is located next to an existing fast food restaurant and is on an arterial route, similar to most other drive-through restaurants in Aberdeen. (f) the proposed access and traffic arrangements are adequate and the previous site had parking provision for 40 vehicles, similar to what is proposed and the previously approved commercial use had 54 parking spaces associated with it, (g) the site does not generate an unacceptable level of traffic and a green Travel Plan can be negotiated with the Planning Authority if this is preferred, (h) the Development Management procedure allowed for no opportunity to explain the proposals, and the material considerations lodged as a planning justification were not acknowledged in the officer's expressed condition and (i) the site was last used as a semi-retail use, not office/industrial development.

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

The proposed development would result in the introduction of a 'bad-neighbour' development to the site, in the form of a fast food restaurant and associated drive-thru. By its very nature, the main focus of such a use is typically to serve and attract passing trade, and in particular, given the site location, this would be in the form of vehicular

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users of the main arterial route from which the site is accessed, the A956 Ellon Road. The proposed development would not be delivering a use designed to primarily meet the needs of businesses and employees of the surrounding business and industrial area, but would be serving a customer base from across a far wider catchment area. As such, approval of the proposed development would generate additional traffic, thereby exacerbating existing congestion in the vicinity of the site. Whilst acknowledging that the design, scale and finishing of the proposed development may not raise specific concerns, it is apparent that such detail cannot be viewed in isolation nor outweigh the issue of principle in this instance. It is concluded that the proposed development would fail to comply with the requirements of Policy BI1 (Business and Industrial Land) of the Aberdeen Local Development Plan in as far as it does not constitute a business or industrial use or a use that can be considered ancillary to other uses within the surrounding business park, and as a result would constitute a departure from development plan policy. Furthermore the proposal would also be contrary to the requirements of both Aberdeen Local Development Plan Policy T2 (Managing the Transport Impact of Development) and Policy D3 (Sustainable and Active Travel) in as far the application and supporting information neither demonstrates that sufficient measures have been taken to minimise the traffic generated or that it has been designed in order to minimise travel by private car or encourage active travel. There are no material considerations identified, including evaluation under the Proposed Aberdeen Local Development Plan 2016, that would outweigh the above policy position or justify approval of the application.

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 unanimously upheld the decision of the appointed officer 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.

More specifically, the reasons in which the Local Review Body based this decision were as follows:-

That the proposed development would fail to comply with the requirements of Policy B1 (Business and Industrial Land) of the Aberdeen Local Development Plan 2017 in as far as it does not constitute a business or industrial use or a use that would primarily meet the needs of businesses and employees of the

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surrounding business and industrial areas, but would be serving a customer base from across a far wider catchment area. However, there are material considerations, namely the length of time over which the site has been marketed and the availability of industrial / employment land, that would outweigh the policy. The proposals would also be contrary to the requirements of both Aberdeen Local Development Plan Policy T2 (Managing the Transport Impact of Development) and Policy T3 (Sustainable and Active Travel) in as far as the application and supporting information neither demonstrates that sufficient measures have been taken to minimise the traffic generated or that it has been designed in order to minimise travel by car or encourage active travel. As such, approval of the proposed development would generate additional traffic, thereby exacerbating congestion in the vicinity of the site and causing a road safety hazard.

**29 KING'S GATE - REPLACEMENT WINDOWS AND DOOR TO DWELLING HOUSE
- 161326**

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 replacement windows and doors to a dwelling house at 29 King's Gate Aberdeen.

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 Ms Charlotte Watson, Trainee Planner; (2) the decision notice dated 9 December 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 Forbes advised that the submitted Notice of Review was found to be valid and submitted within the relevant timeframes.

Mr Forbes provided a description of the application and advised that the appeal relates to the proposed replacement of timber sash and case windows to the front and rear with top-opening Upvc windows to the rear and Upvc sash and case windows to the front. The proposal also sought the replacement of the existing white timber door and fanlight to be replaced by a new Upvc door and fanlight.

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Mr Forbes then referred to the Decision Notice and advised that the application was refused on the grounds that the proposal fails to comply with Policy D1 (Quality Placemaking and Design), D4 (Historic Environment) and H1 (Residential Areas). The proposal fails to demonstrate due regard for its context within the Albyn Place/Rubislaw Conservation Area, where the retention and reinstatement of traditional windows and doors, or suitably sympathetic alternatives, is necessary to maintain and enhance the character of the Conservation Area. Mr Forbes also noted that a reason for refusal was that should the application be approved it would set a precedent for further unsympathetic window and door replacement within the Conservation area.

Mr Forbes then referred to the matters raised in the Notice of Review statement which advised that there were a number of cases where Upcv sash and case applications were granted on the front elevation and it was felt that it was unfair to refuse this application based on precedent. Mr Forbes advised that the previous applications mentioned in the Notice of Review had all been approved prior to the Implementation of the Supplementary Guidance.

In regards to planning policies, Mr Forbes indicated that policies D1, Quality Placemaking by Design, D4, Historic Environment and H1, Residential Areas were all relevant. Also Historic Environment Scotland's "Managing Change in the Historic Environment" guidance note series "Windows and Doorways" and the Supplementary Guidance Technical Advice Notes "The Repair and Replacement of Windows and Doors."

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

Councillor Milne suggested that Planning Officer's write to CR Smith to provide them with links to the newly adopted Local Development Plan and Supplementary Guidance for future reference.

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 upheld the decision of the appointed officer 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:-

The proposal does not comply with Policy D1 (Quality Placemaking and Design), D4 (Historic Environment) and H1 (Residential Areas) as the proposal fails to demonstrate due regard for its context within the Albyn Place/Rubislaw Conservation Area, where the retention and reinstatement of traditional windows and doors, or suitably sympathetic alternatives, is necessary to maintain and enhance the character of the Conservation Area. Whilst acknowledging that the wider visual impact of the proposal in isolation is limited, the replacement of traditional timber windows and door with upvc would risk setting an unwelcome precedent for further unsympathetic window and door replacement within the Conservation Area, which, if replicated, could lead to a cumulative erosion of its character and appearance.

The proposal also fails to comply with the requirements of the Council's relevant TAN, Historic Environment Scotland's Managing Change guidance, and Scottish Planning Policy due to the loss of historic fabric and the proposal's resultant adverse impact on the character and appearance of the Conservation Area. The proposed windows also conflict with the TAN's Supplementary Guidance on "The Repair and Replacement of Windows and Doors" in which the replacement of windows within Conservation Areas are to be a "like for like" replacement in design, method of opening and materials in order to maintain the character and amenity of the Conservation Area.

- **Councillor Ramsay Milne, Chairperson**

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