

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 7 March 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=5622&ver=4>

CHANGE OF USE FROM (CLASS 5) TO USE AS AN INDOOR TRAMPOLINE ARENA (CLASS 11) AT CRAIGSHAW ROAD, TULLOS, ABERDEEN, AB12 3AP - P161212

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 planning permission for the change of use from general industrial (Class 5) to an indoor trampoline centre (Class 11) at Craigshaw Road, Tullos, Aberdeen, AB12 3AP (P161212).

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 Swanson, as regards the procedure to be followed and also, thereafter, by Mr Williamson, 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 Swanson, 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 report of handling by Ms Dineke Brasier, Planning Officer; (2) the decision notice dated 23 December 2016; (3) plans showing the proposal; (4) planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement, documents and initial planning application; and (6) thirty letters of representation and consultation responses.

In respect of the Review, Mr Williamson advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant

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timeframes. Mr Williamson highlighted that the applicant had asked that the review procedure include one or more hearing sessions, combined with further written submissions. prior to the Local Review Body determining the Review and explained that the Local Review Body was required to consider whether it had sufficient information before them to determine the review today.

Thereafter, Mr Williamson referred to the delegated report wherein a description of the site was provided, along with detail of the proposal, relevant planning policies, the history of the site and reason for refusal. He highlighted that the proposals sought to obtain permission to change the use of the property which had been vacant for 5 years, to use as a trampoline centre. Physical alterations to the host property would be relatively minimal, apart from the provision of an oversheet of new goosewing grey cladding, and the internal provision of the trampoline equipment.

He then advised that thirty letters of representation had been received, and those along with consultation responses received were detailed in the report and copies contained in the agenda. In respect of consultation responses, no objections were received, although Roads Officers indicated some concerns relating to walking and cycling routes; availability of public transport, and the need for provision on site for accessible parking, and cycle storage facilities. Mr Williamson then took Members through the plans showing the proposed development.

Mr Williamson advised, as detailed in the delegated report, that the stated reason for refusal of planning permission was that the proposal represented a commercial facility, in an out of centre location, which was not demonstrated as appropriate from the perspective of a sequential approach, and the availability of other properties in more suitable locations. It was therefore considered that the proposal would be contrary to Policy C1 City Centre Development; RT1 Sequential Approach and Retail Impact), and RT2 Out of Centre Proposals of the Adopted Plan (at the time of determination), as well as policies NC1 City Centre Development – Regional Centre, NC4 Sequential Approach and Impact and NC5 Out of Centre Proposals of the Proposed Local Development, which was subsequently adopted following the determination of the application, which was the subject of review. Additional reasoning provided indicated that there would be potential conflict with existing business and industrial uses within the immediate vicinity and particularly on Craigshaw Road given the different users and operational characteristics between them and a commercial leisure facility focused on families. As such, it was considered that the proposed use would not be suited to that location as a result, and that there would be tension with Policy B1 of the proposed LDP as well as Scottish Planning Policy. The final aspect of the reason for refusal related to the nearest bus stop being located around 600 metres away on Wellington Road, which exceeded the maximum distance as set out through the Supplementary Guidance relating to Transport and Accessibility. The routing to get to the bus stop could have significant potential for an adverse impact on pedestrian safety. As such, it was considered that the proposals would be contrary to policies D3 Active and sustainable travel and RT2 out of centre proposals of the Adopted LDP, and Policies T3 Sustainable and active travel and NC5 Out of Centre Proposals of the Proposed LDP,

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in light of the proposal not being readily accessible by sustainable transportation, and heavily reliant upon the private car.

Thereafter, Mr Williamson, advised that the statement from the applicant's agent which accompanied the Notice of Review, as contained in the agenda, expressed the following points:

- The application did accord with the relevant policies of the Local Development Plan and Scottish Planning Policy;
- There were sufficient material considerations (including economic and health benefits) which support the application. Among these were the creation of 60 non oil related jobs during a period of economic downturn, and the provision of an all-weather facility which promotes exercise and healthy lifestyles;
- The proposal would also see the re-use of a building which had been vacant for 5 years, and which was within an area which was less attractive than more modern business/industrial estates or sites;
- The planning case officer acknowledged the principle of the change of use was open to consideration in light of the aforementioned aspects, albeit subject proposal meeting the other requirements of planning policy;
- The spatial requirements of the building, which required at least 1400 square metres, and a minimum head height of 6m, rendered many locations unsuitable;
- An options assessment was carried out by Knight Frank in respect of the availability of alternatives, which drew a blank;
- Of the 89 similar facilities in the UK, 86 were located within industrial estates, and 100% of Scottish examples were in industrial estates;
- Precedents were already located in Industrial Estates in the City including Kart Start and Strikers in Bridge of Don, and the relatively nearby Banks O' Dee Sports Club on Abbotswell Road;
- There were opportunities for multi-purpose trips in the wider vicinity;
- The proposal should meet a qualitative and quantitative deficiency within the area;
- There was no objection from roads in respect of road safety, and peak activity was likely to be evening and weekends thus minimising potential conflicts;
- In respect of the proximity or otherwise to public transportation and access by walking/cycling, the appellant had indicated the potential for enhanced infrastructure connections from the rear of the facility to the Toucan crossing on West Tullos. The appellant indicated a contribution could be made to provide this infrastructure;
- The appellant also considered that the proposals aligned with the aims and objectives of the Strategic Development Plan; and
- In respect of Scottish Planning Policy, it had a presumption in favour of sustainable development.

Mr Williamson advised that the Local Review Body needed to assess the proposal against the policies of the Development Plan, and the other material considerations

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identified such as the Councils Supplementary Guidance relating to Transport and Accessibility.

The principle considerations in this instance were:

- whether the proposal would be acceptable in this area;
- whether there were any alternative locations utilising the sequential approach which would be preferable;
- Whether the proposal could be conveniently accessed by foot, cycle and sustainable transportation measures, or whether the usage could lead to conflicts with neighbouring uses and pedestrian safety; or
- Whether there were any material considerations which should be taken into account such as the economic or health benefits which might arise.

Members asked questions of Mr Williamson regarding the proposed change of use, namely: accessibility to public transport from the building; requirement for additional road infrastructure; and the availability and suitability of other properties. Mr Williamson advised Members of the distances to bus stops on Wellington Road, Arbroath Way, and to Provost Watt Drive. Mr Williamson further confirmed the detail that would require to be considered in respect of the shared footway/cycleway connection to the crossing point, and that infrastructure such as existing lampstandards may require re-siting/replacement. It was advised that such matters could not require a financial contribution to be conditioned. A condition could however be worded to require the submission of a scheme for the provision of a pedestrian/cycle connection to the satisfaction of the Planning Authority in liaison with Roads Officers.

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.

Thereafter, Members considered each of the aforementioned principle considerations in respect of the proposal.

Following the discussion, the Local Review Body unanimously agreed to **reverse** the decision of the appointed officer and **to approve** the application **subject to the following conditions:**

- (1) that, the proposed change of use hereby approved shall not be brought into use, unless a further detailed scheme for the provision of local infrastructure improvements for enhanced walking and cycling connections to and from the 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 as so agreed prior to the commencement of use – in the interests of pedestrian and road safety, and the provision of enhanced accessibility;
- (2) that, the proposed change of use hereby approved shall not be brought into use, unless the car parking areas (including delineation) and associated drainage measures have been provided in complete accordance with the details shown

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on the approved plan 5297/007/- Once provided, the turning and parking areas shall thereafter be permanently retained as such - in order to ensure the timely completion of the parking areas to an adequate standard and in the interests of road safety;

- (3) that, the proposed change of use hereby approved shall not be brought into use, unless a further detailed scheme for the provision of cycle storage facilities (both short and long term) has been submitted to and approved in writing by the planning authority. Thereafter the development shall be carried out in complete accordance with the details as so agreed prior to the commencement of use, and thereafter be retained in perpetuity – in the interests of pedestrian and road safety, and the provision of enhanced accessibility; and
- (4) that, the proposed change of use hereby approved shall not be brought into use, unless details of bin/refuse provision has been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be carried out in complete accordance with the details as so agreed prior to the commencement of use – in order to ensure that suitable provision was made for the storage and collection of waste.

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 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application. More specifically, the reasons on which the Local Review Body based this decision are as follows:-

The principle of the proposed change of use was considered acceptable as an exception to the general principles of Policy B1 (Business and Industrial Land) of the Aberdeen Local Development Plan (2017), on the basis of the following material considerations and special circumstances, namely: (1) the activity proposed had specific space requirements which suited a large industrial building and therefore restricted the buildings available to the applicant and it was satisfied that an assessment of alternative locations had been undertaken and that no suitable premises in a more suitable location were available and therefore that the policy did align with the principles of policies NC1 City Centre – Regional Centre and NC4 Sequential Approach and Impact, of the Local Development Plan; and (2) that given the presence of other leisure uses on nearby sites in the vicinity of the building had been approved and given the economic downturn and lack of investment in property assets and demand for industrial properties, as demonstrated by the building being vacant for a period of 5 years, the change of use would be of a net economic, as well as a health and wellbeing, benefit to the city in line with the provisions of Scottish Planning Policy 2014 and the Aberdeen City and Shire Strategic Development Plan.

495 GREAT NORTHERN ROAD, ABERDEEN, ABERDEEN CITY, AB24 2EE - PROPOSED UPPER STOREY EXTENSION ABOVE SINGLE STOREY EXTENSION TO THE REAR - P160882

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2. The Local Review Body then considered the second request for a review of 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 an upper storey extension to the flat above the single storey rear extension of the hot food takeaway at 495 Great Northern Road, Aberdeen (P160882).

The Chairperson advised that the LRB would be addressed by Mr Nicholas Lawrence and reminded members that Mr Lawrence 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 Lawrence 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 report of handling by Mr Brown, Planning Officer; (2) the decision notice dated 23 December 2016; (3) plans showing the proposal; (4) links to planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant along with an accompanying statement and the initial planning application; and (6) one public representation and a consultation response from Environmental Health.

In respect of the Review, Mr Lawrence advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes. Mr Lawrence explained that the Local Review Body was required to consider whether it had sufficient information before them to determine the review today.

Thereafter, Mr Lawrence referred to the report of handling wherein a description of the site was provided, along with detail of the relevant planning policies, and reasons for refusal.

Mr Lawrence advised that one public representation had been received and explained that it and the consultation response from Environmental Health were contained in the agenda and referred to in the report of handling.

Mr Lawrence then took Members through the plans showing the existing and proposed floor plans and elevations for the development, in particular the proposed window on the west elevation of the proposed extension.

Mr Lawrence then advised, as detailed in the report of handling, that the stated reason for refusal of planning permission was as follows:-

By way of scale, size, materials and massing in the context of 495 Great Northern Road and the surrounding area, the proposed extension would be unacceptable. The proposal would result in the loss of neighbouring privacy. It would therefore fail to accord with Policy D1 – Architecture and Placemaking and Policy H1 – Residential Areas of the adopted Aberdeen Local Development Plan; the Supplementary Guidance: 'The Householder Development Guide'; and the relevant policies of the proposed Aberdeen Local Development Plan.

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The statement from the applicant which accompanied the Notice of Review advised of the rationale for the design approach and advised of the applicant's response to the reasons for refusal.

Specifically regarding the issue of loss of privacy which formed a second reason for refusal, the statement highlighted that there was no objection raised by the Appointed Officer to the principal window in the extension which faced south over the applicant's property. The one letter of objection which had been received made representation about the privacy issues arising from this window in the west elevation. The window was a small high-level window, only some 600mm high, which could be conditioned to have frosted glass; this window served to provide daylight only. However the window was positioned so that it was set back close to the roof slope of the existing house, which means that there are no privacy issues in relation to windows in the property at 497 Great Northern Road as acknowledged in the report of handling. Therefore any overlooking would be limited to the rear area and this would be extremely restricted. The cill of the window was 800mm above the floor level of the room so views out of the window would tend to be to distant objected or to the sky. It also highlighted that the existing open rear stair provided views across neighbouring properties which would no longer be the case if the extension was to be built.

In conclusion, the applicant's statement advised that the applicant felt he had demonstrated that (a) contrary to the reasons given for refusal, the proposed extension had been considered carefully and complies with both the Council's Development Plan Policy and Supplementary Guidance; and (b) the Appointed Officer had overstated the impact of the west facing window and the application did not give rise to any adverse impact on neighbours.

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, unanimously, that the review under consideration should be determined without further procedure.

Members asked questions of Mr Lawrence regarding the proposed development, namely: the changes proposed to the ground floor; confirmation that a separate application would be required for a ventilation system; materials to be used in the construction of external surfaces; solutions to the privacy issues raised; and the potential impact on privacy of the proposed window on the western elevation.

Following discussion, Members agreed by a majority that subject to conditions, they were satisfied that the scale, size, materials and massing of the proposed extension in the context of 495 Great Northern Road was acceptable and that it would not be out of context with the area or adversely affect residential amenity subject to the aforementioned conditions. Therefore, the Local Review Body was satisfied that the proposal complied with Policies D1 – Architecture and Placemaking and H1 –

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Residential Areas of the adopted Aberdeen Local Development Plan 2017; and the Supplementary Guidance: 'The Householder Development Guide'.

However, one Member agreed with the decision of the Appointed Officer that the application be refused as he was satisfied that by way of scale, size, materials and massing in the context of 495 Great Northern Road and the surrounding area, the proposed extension would be unacceptable. The proposal would result in the loss of neighbouring privacy. It would therefore fail to accord with Policy D1 – Architecture and Placemaking and Policy H1 – Residential Areas of the adopted Aberdeen Local Development Plan; the Supplementary Guidance: 'The Householder Development Guide'; and the relevant policies of the proposed Aberdeen Local Development Plan.

The Local Review Body therefore, by majority, agreed to **reverse** the decision of the appointed officer and **to approve** the application subject to the following condition:

1. The development hereby permitted shall not commence until samples of the materials (including colour) to be used in the construction of the external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason - In the interests of the visual amenity of the area and to comply with policy D1 of the Aberdeen Local Development Plan 2017.

2. Notwithstanding the approved drawings the development shall not commence until revised drawings omitting the window on the western elevation to the kitchen as shown on submitted drawing Nos 100 and 101 have been submitted to and agreed in writing by the local planning authority and the development shall be undertaken in complete accordance with the drawings and retained thereafter.

Reason –in the interest of residential amenity and to comply with policy H1 of the Aberdeen Local Development Plan 2017.

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 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application. More specifically, the reasons on which the Local Review Body based this decision are as follows:-

The Local Review Body was satisfied that the scale, size, materials and massing of the proposed extension in the context of 495 Great Northern Road was acceptable and that it would not be out of context with the area or adversely affect residential amenity subject to the aforementioned conditions. Therefore, the Local Review Body was satisfied that the proposal complied with Policies D1 – Architecture and Placemaking and H1 – Residential Areas of the adopted Aberdeen Local Development Plan 2017; and the Supplementary Guidance: 'The Householder Development Guide'.

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40 WHITEHALL ROAD, ABERDEEN, AB25 2PR - PROPOSED DORMER TO REAR AND ROOF LIGHTS TO FRONT OF DWELLING HOUSE - P161476

3. The Local Review Body then considered the final request for a review of 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 box dormer roof extension on the rear elevation of the dwelling and three rooflights on the principal elevation of the dwelling at 40 Whitehall Road, Aberdeen (P161476).

The Chairperson advised that the LRB would 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.

In relation to the application, the Local Review Body had before it (1) a report of handling by Mr Brown, Planning Officer; (2) the decision notice dated 23 December 2016; (3) plans showing the proposal; (4) links to planning policies referred to in the report of handling; (5) the Notice of Review submitted by the applicant along with an accompanying statement and the initial planning application; and (6) a consultation response from the Roads Development Management Team.

In respect of the Review, Mr Easton advised that he had checked the submitted Notice of Review and had found it to be valid and submitted within the relevant timeframes. Mr Easton explained that the Local Review Body was required to consider whether it had sufficient information before them to determine the review today.

Thereafter, Mr Easton referred to the report of handling wherein a description of the site was provided, along with detail of the relevant planning policies, and reasons for refusal.

Mr Easton advised that no public representations had been received and that one consultation response from the Roads Development Management Team had been received and copy was contained in the agenda and referred to in the report of handling.

Mr Easton then took Members through the plans showing the existing building and the proposed development, in particular showing the location of the proposed dormer window and how this would be viewed from Craigie Park and Whitehall Terrace.

Mr Easton then advised, as detailed in the report of handling, that the stated reason for refusal of planning permission was as follows:-

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Due to its non-traditional design, its scale, size, massing, materials and location, the proposed dormer extension would be unacceptable in the context of 40 Whitehall Road and the surrounding area. Further information was required to assess whether the proposed rooflights would be acceptable. This information was requested, but not forthcoming. Overall, the proposal would negatively affect the character of the Albyn Place/Rubislaw conservation area. The proposed extension and dormer would thus fail to comply with Scottish Planning Policy; Historic Environment Policy Statement and its associated document, 'Managing Change in the Historic Environment: Roofs'; Policy D1 – Architecture and Placemaking, Policy D5 – Built Heritage and Policy H1 – Residential Areas of the adopted Aberdeen Local Development Plan; the Supplementary Guidance: 'The Householder Development Guide'; the related policies of the proposed Aberdeen Local Development Plan.

The statement from the applicant which accompanied the Notice of Review as contained in the agenda stated the applicant's response to the reasons for refusal. In conclusion, the applicant viewed that statement demonstrated that (a) contrary to the reasons given for refusal, the proposed development complied with the Council's Supplementary Guidance and by implication therefore complied with Development Plan Policy; (b) the Appointed Officer had overstated the prominence of the dormer in the report of handling and that, in fact, the dormer would only be seen over a very short section of Craigie Park and at one point on Whitehall Terrace; (c) there was no adverse impact on the character of the Albyn Place/Rubislaw Conservation Area; (d) the application did not give rise to any adverse impact on neighbours and indeed had not attracted any objections from neighbours or amenity societies.

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, unanimously, that the review under consideration should be determined without further procedure.

Members asked questions of Mr Easton regarding the proposed development, namely: design of the proposed non-traditional dormer and potential impact on the character of the area; location of rooflights; and the visibility of the dormer and potential impact on privacy of neighbouring properties.

The Local Review Body therefore unanimously agreed to **reverse** the decision of the appointed officer and **to approve** the application subject to the following condition:

That no development shall take place unless details of the distance which the three roof-light windows would project from the plane of the roof, had been submitted to and approved in writing by the planning authority. Thereafter the development shall take place in accordance with the approved details.

Reason – in order to preserve the character of the conservation area.

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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 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application. More specifically, the reasons on which the Local Review Body based this decision are as follows:-

Despite its non-traditional design, the Local Review Body was satisfied that the scale, size, massing, materials and location of the proposed dormer extension was acceptable in the context of 40 Whitehall Road and the surrounding area and would not negatively affect the character of the Albyn Place/Rubislaw conservation area. Therefore, it was satisfied that the proposed extension and dormer would comply with Scottish Planning Policy; Historic Environment Policy Statement and its associated document, 'Managing Change in the Historic Environment: Roofs'; Policy D1 – Quality Placemaking by Design, Policy D4 – Historic Environment and Policy H1 – Residential Areas of the adopted Aberdeen Local Development Plan (2017); and the Interim Planning Guidance: 'The Householder Development Guide'.

COUNCILLOR RAMSAY MILNE, Convener

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