

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

14 August 2017

ABERDEEN, 14 August 2017. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton , Convener; and Councillors Duncan and Nicoll.

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

<HTTPS://COMMITTEES.ABERDEENCITY.GOV.UK/IELISTDOCUMENTS.ASPX?CID=284&MID=5826&VER=4>

12 ST SWITHIN STREET, ABERDEEN, AB10 6XD - ERECTION OF ENCLOSURE AND AREA OF EXTERNAL SEATING FOR CAFE - P170175

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 enclosure and area of external seating for cafe at 12 St Swithin Street, Aberdeen, Planning Reference 170175.

Councillor Boulton as Chairperson gave a brief outline of the business to be undertaken. She indicated that the LRB would be addressed by the Assistant Clerk, Mrs Allison Swanson with regards to the procedure to be followed and also, thereafter, by Mr Andrew Miller who would be acting as the Planning Adviser to the Body for 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. She 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, 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 more general aspects relating to the procedure.

In relation to the application, the LRB had before it (1) a delegated report by Ms Linda Speers, Planning Technician; (2) the decision notice dated 9 May 2017; (3) copies of the plans and photographs showing the proposal; (4) links to the planning policies referred to in the delegated report; (5) letters of representation; and (6) the Notice of Review submitted by the applicant along with an accompanying statement.

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

Mr Miller advised that planning permission was sought for the extension of the outdoor seating area to the front of the café from that previously consented to the pavement edge and provision of enclosure.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

14 August 2017

In terms of site location, he advised that the site formed an area of paving to the front of a café with outdoor seating at 12 St Swithin Street, close to its junction with Stanley Street. The café was contained within the ground floor of the unit, with residential use (flats) above. The surrounding area was predominantly residential and forms part of the Albyn Place/Rubislaw Conservation Area.

Mr Miller made reference to the Notice of Review submitted by the appellant, in which it stated that precedent had been set in St Swithin Street with respect to other businesses being afforded street cafe enclosures.

Mr Miller indicated that three letters of representation had been received from neighbours. The three letters all objected to the proposal and raised the following matters:

- Enclosing the pavement with a relatively high fence would affect the character of the area and spatial quality of the streetscape;
- The residential area as affected by the number of cafes within the street and is having the following negative impact for residents:
 - Littering from takeaways
 - Increased vermin
 - Parking Issues
 - Impede and blocking public pavement areas (bikes, prams etc.)
- The applicant had not notified all the affected parties; and
- The outcome of the previous planning application P160883 was not made known to those who objected.

No objections or observations had been received for consultees, such as Environmental Health or Roads Development Management.

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

1. The proposal was contrary to Policy H1 of the Aberdeen Local Development Plan 2017 as the proposed enclosure and external seating area would have a negative impact on surrounding residential amenity in terms of privacy.
2. The design, appearance and location of the enclosure were inadequate and inappropriate and did not contribute to successful placemaking and failed to comply with Policy D1 of the Aberdeen Local Development Plan 2017.
3. Subsequently, as this application would create an adverse impact on the immediate area; the proposals did not enhance the character of the Conservation Area and did not accord with Scottish Planning Policy, Historic Environment Scotland Policy Statement and Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017.

Mr Miller advised the LRB of relevant planning history in terms of the location wherein he advised firstly, that on 13 November 2015, conditional planning permission was

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

14 August 2017

granted for the change of use from a hairdresser to a coffee shop including a hot and cold food takeaway. The conditions included:

- No cooking or deep fat/shallow frying to take place on the premises;
- Service deliveries/uptime only to occur between 7am and 7pm Monday to Saturday or 10am to 4pm on Sundays; and
- That the outdoor area to the front of the premises shall not be used for outdoor seating.

Secondly, on 28 October 2016, conditional planning permission was granted for the change of use from pavement to outdoor seating area. The conditions included:

- That the area of the pavement to be used for outdoor seating shall be restricted to that as shown on approved drawing 101 Rev D and that no tables or chairs shall be sited outwith this area at any time;
- That the outdoor seating area hereby approved shall only be used between the hours of 8am and 8pm on any given day and that any tables, chairs and other street furniture for the purpose of, or associated with, facilitating outdoor seating shall be removed from the pavement outwith the hours of operation for the outdoor seating area; and
- That no amplified music shall be played in the outdoor seating area at any time.

Mr Miller advised that the appellant had not requested any further procedure and asked Members to determine whether they wished to hold any further procedures in advance of determining the review before them.

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, Mr Miller made reference to the relevant planning considerations, as follows:-

Aberdeen Local Development Plan 2017 (ALDP)

- Policy D1 (Quality Placemaking by Design)
 - Was it of a high standard of design?
- Policy H1 (Residential Areas)
 - Did it constitute overdevelopment?
 - Did it result in an unacceptable impact on residential amenity?
 - Did it result it comply with the Supplementary Guidance?
- Policy D4 (Historic Environment)
- Scottish Planning Policy and Historic Environment Scotland Policy Statement – did the proposal either protect and enhance the character or setting of the Conservation Area?

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

14 August 2017

He explained that the LRB should consider if there were any material considerations they felt were relevant to the application and should be taken into consideration in the determination.

Finally, Mr Miller advised the proposed plans did not indicate that the existing areas of external seating were to be used, however it was possible for both permissions to be implemented should approval be granted. Therefore, if the LRB was minded to grant permission, it should consider the application of any conditions, specifically the conditions applied to the planning permission granted on 28 October 2016 in respect of the outdoor seating area to ensure that any subsequent permission did not conflict with the existing conditions for another area on the same site.

The Local Review Body then asked some questions of Mr Miller, specifically regarding the materials proposed for the enclosure, the location of the proposed external seating area and the conditions on the previous planning permission granted at this location.

Members unanimously agreed that the decision of the appointed officer to refuse the application be upheld.

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:-

1. The proposal was contrary to Policy H1 of the Aberdeen Local Development Plan 2017 as the proposed enclosure and external seating area would have a negative impact on surrounding residential amenity in terms of privacy.
2. The design, appearance and location of the enclosure were inadequate and inappropriate and did not contribute to successful placemaking and failed to comply with Policy D1 of the Aberdeen Local Development Plan 2017.
3. Subsequently, as the application would create an adverse impact on the immediate area; the proposals did not enhance the character of the Conservation Area and did not accord with Scottish Planning Policy, Historic Environment Scotland Policy Statement and Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017.

Having weighed these considerations, the proposal was therefore considered unacceptable and the Local Review Body's decision was to refuse.

- **Councillor Marie Boulton, Chairperson**