

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

ABERDEEN, 7 December 2017. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Cameron and Nicoll.

**The agenda and reports associated with this minute can be found at:-**  
<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MId=6034&Ver=4>

### **PROPOSED ERECTION OF TWO DETACHED DWELLINGS, FORMATION OF ASSOCIATED PRIVATE GARDEN GROUND AND CAR PARKING AT BURNSIDE POULTRY UNITY, LITTLE CLINTERTY, ABERDEEN, AB21 0TL - P170395**

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 proposed erection of two detached dwellings, the formation of associated private garden ground and car parking at Burnside Poultry Unit, Little Clinterty, Aberdeen, AB21 0TL (P170395).

Councillor Boulton, as Chairperson, gave a brief outline of the business to be undertaken. She 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 Miller, 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. 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, 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 Mr Robert Forbes, Senior Planner; (2) the decision notice dated 26 July 2017; (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) letters of representation and consultation responses.

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

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Mr Miller advised that the site subject to the review formed a 1.3 hectare site formed of agricultural land. The site included a disused poultry shed (10 x 35 metres), the foundations of a demolished agricultural building and various other farming paraphernalia. There was also a mix of mature and immature trees. The site was located within the Green Belt of Aberdeen, as zoned within the Aberdeen Local Development Plan 2017.

In terms of the proposal, Mr Miller advised that the application sought consent for the erection of two houses on the site, utilising the existing access track. Both houses would be identical and would be one and half storey and would have a single integral garage.

Mr Miller explained that the reasons for refusal of the application was that the proposal would be contrary to policy NE2 – Green Belt, on the basis that the proposal would not fall within any of the specified exceptions for development within the green belt. The proposal was also considered to be contrary to policy D2 – Landscape, on the basis the development would result in suburban intrusion into open countryside, as well as being contrary to Scottish Planning Policy and the Strategic Development Plan.

The proposal was also considered to be unduly car dependant and would conflict with policies T2 and T3, which both seek to minimise the number of car journeys generated by development and maximise sustainable and active travel. Finally, it was considered there was a potential for a precedent to be set.

With regards to the applicant's statement, Mr Miller advised that the applicant had highlighted that a similar case for the removal of farm buildings and was granted at nearby Clinterty Mill, in terms of new housing replacing redundant agricultural buildings, and policies he was of the view that these had been applied inconsistently. Mr Miller advised that many of the arguments in the review statement made direct comparison to this case.

Mr Miller also advised that the applicant had stated that the current poultry shed was not fit for purpose and it would be uneconomical to repair it and unviable to bring it back into agricultural use. Feasibility statements and quotes provided were dismissed by the case officer. The applicant had also stated that the site was within 1km walk of Blackburn and bus services could be accessed here, as well as from the A96 with underpass provided. Also, the applicant was of the view that opening of AWPR would lower traffic volumes on nearby public road. The re-use would cross-fund remediation works for contamination on site.

In relation to the history of the site, Mr Miller advised that in April 2003 an application for the erection of a house adjacent to the site was refused consent. Also, in January 2017 an application for the erection of two houses at the site was refused under delegated powers. This differed in that one of the houses was larger and had a detached garage.

With regards to consultation responses and objections, Mr Miller advised that the following responses had been received:

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- Dyce and Stoneywood Community Council had objected to the application as they considered it to be an inappropriate land use in the Green Belt. They were not convinced that “enabling development” applies in this case compared with Clinterty Mill, where they state the historic mill was refurbished (this was not the case). Accordingly they did not believe policy R2 – Remediation of Contaminated Land.
- Roads Development Management had raised no objections to the application but had asked for details of a refuse collection scheme.
- Environmental Health had stated that there should be evidence provided that demonstrated that a public water supply has been established at the property.
- Contaminated Land had stated that site investigation provided highlight potential contamination. They had also requested conditions requiring a further survey to be undertaken and remediation implemented.
- Environmental Policy had noted that a tree survey was not provided with the application and advised that this was required. They raised no concerns in respect of bats. They also recommended that further ecological survey work be undertaken and considered that the landscape impact of the proposal would be adverse.
- Three letters of objection were submitted. The matters raised related to:
  1. Breach of green belt policy
  2. Potential setting of precedence for further housing development in greenbelt.
  3. Site history of refusals.
  4. Adverse road safety impact and poor linkages of site to sustainable transport.
  5. Visual prominence and lack of screening.
  6. No justification for 2 houses on site.
  7. Site was not severely contaminated and the site has the potential for agricultural uses as evident by recent use as vegetable plot/market garden/grazing.
  8. Negative impact on neighbouring amenity due to screening.

Mr Miller then highlighted that the applicant had asked that the review procedure include one or more hearing sessions due to complex issues arising from the review 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.

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At this point, the Local Review Body considered whether they had sufficient information before them to proceed to determine the review. The Chairperson and Councillor Cameron advised that they wished a site visit to be held prior to determining the review. Councillor Copland advised that he knew the site well and did not feel that a site visit was required. The Local Review Body then agreed by majority (two to one) that the review under consideration should be adjourned in order for a site visit to be conducted in due course.

**PROPOSED ERECTION OF A 1.5 STOREY EXTENSION TO SIDE, FRONT PORCH AND DORMERS TO FRONT AND REAR AT POMONA, 38 CAMERON STREET, ABERDEEN, AB23 8QB - P170755**

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 1.5 storey extension to the side, front porch and dormers to the front and rear at Pomona, 38 Cameron Street, Aberdeen, AB23 8QB (P170755).

The Chairperson advised that the LRB would be addressed by Mr Andrew Miller and reminded members that Mr Miller 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 Miller 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 Roy Brown, Planning Technician; (2) the decision notice dated 6 September 2017; (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) two public representations and consultation responses from Flooding and Coastal Protection and Roads Development Management.

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

Mr Miller advised that the site subject to the review formed a 1.5 storey semi-detached house dating from the 1970s. The surrounding area was formed of similar housing. Mr Miller showed photos of the site.

He explained that the application sought consent for the erection of a 1½ storey extension to the side of the dwelling, a front porch, and box dormers to the front and rear of the dwelling.

The reasons for refusal stated by the appointed Planning Officer were that the proposals were contrary to policies Quality Placemaking by Design and H1 –

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Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide' on the following basis:

- The proposed porch would be substantial and failed to incorporate sufficient glazing which was contrary to Supplementary Guidance;
- The proposed dormers would fail to comply with the Supplementary Guidance, as they would not have glazing to their extremities and would be less than 600 mm from the ridge of the house;
- Overlooking from rear dormer window into garden ground of 11 Gordon Place; and
- Finally, it was considered there was a potential for a precedent to be set for further porches of this scale in the area.

With regards to the applicant's statement, Mr Miller advised that the applicant's agent had highlighted the following matters from their perspective:

- The only location a door could be created was to the front, given that a garage would be on the site (maintaining a car parking space);
- The design reflected the character of the surrounding area;
- Whilst the dormer windows failed to comply with the Supplementary Guidance in terms of distance from ridge, the dormer height would match the attached neighbour and thus would not appear imbalanced on the house. The windows were also at extremities of the dormers;
- There was an incorrect statement on the decision notice that there were no amendments;
- Materials were suitable for the surrounding area; and
- A larger porch to front would be more in keeping with the surrounding area rather than that allowed under permitted development (i.e. did not need consent).

Mr Miller highlighted that the applicant's submission also made several comments on what was debated with the case officer (frosted glass, roof light windows etc.) but emphasised it was for members to determine the review based on the information in front of them.

With regards to consultation responses and objections, Mr Miller advised that the following responses had been received:

- Roads Development Management had raised no objections but noted that the width of the garage would be less than that required by the Supplementary Guidance, though they queried whether a wider garage could be achieved on the site;
- Flooding raised no objections but recommended advisory notes on rain water attenuation and permeable surfaces;
- Public Objection - Two letters of objection were submitted. The matters raised related to:
  1. Loss of daylight to bedroom, bathroom and hall of 36 Camron Street due to height of side extension.

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2. Absence of similar development in the surrounding area.
3. General overbearance would close in 36 Cameron Street and would jeopardise the security of the property.
4. Overlooking from rear dormer (bedroom windows) into the curtilage of 11 Gordon Place to the detriment of privacy of the occupants (diagram provided by objector on page 395 of the agenda).
5. Overlooking into two bedroom windows of 11 Gordon Place.

Mr Miller then highlighted that the applicant had asked that the review procedure include one or more hearing sessions, a site visit and further written information 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.

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 sufficient information before them.

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

### Aberdeen Local Development Plan 2017

- D1 – Quality Placemaking by Design: Required development to be of a high standard of design.
- H1 – Residential Areas: Householder Development should:
  - Not result in an unacceptable impact on the character and amenity of the surrounding area;
  - Comply with Supplementary Guidance.

### Householder Supplementary Guidance

- Contains guidance to ensure front extensions were modest and incorporate substantial glazing.
- Dormer windows should not dominate the roof space, and should be within the basic principles outlined in the Supplementary Guidance.

Mr Miller reminded members, that in determining the appeal, they should also take into consideration any material considerations they felt were relevant to the application that would point to either overturning the original decision or dismissing the review. Should members wish to overturn the decision of the appointed officer, consideration should be given to any conditions which would be appropriate in order to make the proposal acceptable. However all conditions must meet the six tests set out by Scottish Government policy which he would advise upon if necessary.

Members asked questions of Mr Miller regarding the proposed development, namely: the difference in the scale of the proposal in comparison to the development at number

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40; clarification that there were proposed to be dormer windows on both the existing and new roof; the depth of the proposed porch; the distance between dormer and neighbouring property to the rear; minimum distance from the rear of a property to another property in terms of planning policy; the size of the garage; 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 (two to one) that the proposal was unacceptable and therefore the Local Review Body's decision was to refuse.

One Member, Councillor Cameron, concluded that subject to conditions, he was satisfied that the scale, size, materials and massing of the proposed extension in the context of 38 Cameron Street, Aberdeen, was acceptable and that it would not be out of context with the area or adversely affect residential amenity subject to the relevant conditions being applied. Therefore, he was satisfied that the proposal complied with policies D1 Quality Placemaking by Design and H1 - Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide'.

However, two members, the Chair and Councillor Copland, agreed with the decision of the appointed Planning Officer that the proposal would be contrary with policies D1 Quality Placemaking by Design and H1 - Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide' and the more specific reasons for this decision were as detailed below.

In coming to their decision, the members of 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, on a majority basis, based this decision were as follows:-

The proposal would be incongruous in terms of design and scale to the original dwelling and the surrounding area. The proposed porch would be substantial in terms of massing and, in contravention to the Supplementary Guidance: 'The Householder Development Guide', would not incorporate a substantial proportion of glazing. There were negligible examples of front porches in the surrounding area and this proposal would set an unwelcome precedent for similar development in the area. The proposed dormers would fail to comply with this Supplementary Guidance as they would not have glazing to the extremities and would be less than the advised minimum of 600mm from the ridge of the dwelling. Due to the incompatible design of the porch and, in particular, the front dormer, the proposal would not be architecturally compatible in terms of design and scale in the context of the original building and the surrounding area. The proposed dormer on the rear elevation would have two windows to habitable rooms which would directly overlook the rear garden ground of 11 Gordon Place, which would significantly adversely affect the level of privacy, and therefore the level of amenity

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afforded to this property. The proposal would therefore adversely affect the character and amenity of the surrounding area.

The proposal therefore failed to comply with the principles of Policies D1 – Quality Placemaking by Design and H1 – Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide'. There were no material planning considerations which would indicate other than the refusal of planning permission in this instance.

Having weighed these considerations, the Local Review Body, on a majority basis, considered the proposal as unacceptable and therefore the Local Review Body's decision that the decision of the appointed officer to refuse the application be upheld.

### **FORMATION OF GARAGE DORMER AND ROOF LIGHTS AT 21 HAMILTON PLACE, ABERDEEN, AB15 4AX - P170591**

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 formation of garage dormer and roof lights at 21 Hamilton Place, Aberdeen, AB15 4AX (P170591).

The Chairperson advised that the LRB would be addressed by Mr Andrew Miller and reminded members that Mr Miller 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 Miller 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 Ms Sheila Robertson, Planning Technician; (2) the decision notice dated 26 July 2017; (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) one public objection.

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

Mr Miller advised that the site subject to the review formed a garage at the rear of traditional granite built house on Hamilton Place that had been divided into two flats. The garage fronts on to the lane to the rear of Hamilton Place. Mr Miller showed photos of the site.

Mr Miller explained that the application sought consent for the installation of a dormer window on the roof the existing garage. At present, the garage had roof lights. The dormer window would be PVCu framed and the dormer would have weather boarding cheeks.



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He went on to advise that the appointed Planning Officer had refused the application as the proposals were contrary to policies D1 – Quality Placemaking by Design and H1 – Residential Areas: Householder Development and the Householder Supplementary Guidance on the basis that the dormer window would be an obtrusive structure on the roof of the garage due to its massing and design, and would be out of keeping with the street scene of the lane and the conservation area, therefore failing to comply with H1, D1, D4 (Historic Environment – which ensures compliance with Scottish Planning Policy / Historic Environment Scotland Policy Statement).

With regards to the applicant's statement, Mr Miller advised that the applicant's agent had highlighted from their perspective there were many examples of flat roof extensions to the rear elevations of the lane, and they felt that this one should also be supported. Mr Miller advised that no details of precedents had been provided.

With regards to consultation responses and objections, Mr Miller advised that no consultee responses had been received and one letter of public objection. The public objection raised the building warrant process. In respect of the further comment received from the objector, it highlighted there were no other garages with dormer windows in the lane, permission of fixing the gable to the adjacent mews (not a material consideration), inaccurate plans (windows on north elevation and skewed/concaved roof).

Mr Miller then highlighted that the applicant had stated that in their opinion the Local Review Body could determine the Review without the need for a site visit, a hearing session(s) or further written information and explained that the Local Review Body was required to consider whether it had sufficient information before them to determine the review today.

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 sufficient information before them.

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

### **Aberdeen Local Development Plan 2017**

- D1 – Quality Placemaking by Design: Requires development to be of a high standard of design.
- H1 – Residential Areas: Householder Development should:
  - Not result in an unacceptable impact on the character and amenity of the surrounding area;
  - Comply with Supplementary Guidance.
- D4 – Historic Environment (compliance with Scottish Planning Policy / Historic Environment Scotland Policy Statement)

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### Householder Supplementary Guidance

- Does not permit use of dormer windows on outbuildings to achieve additional headroom.

SPP and HESPS both require development to either preserve or enhance the character of conservation areas.

Mr Miller reminded members that in determining the appeal, should also take into consideration any material considerations they feel were relevant to the application that would point to either overturning the original decision or dismissing the review. Should members wish to overturn the decision of the appointed officer, consideration should be given to any conditions which would be appropriate in order to make the proposal acceptable. He advised that all conditions must meet the six tests set out by Scottish Government policy and he would go through these if necessary.

Mr Miller explained that the Local Review Body was required to consider whether it had sufficient information before them to determine the review today.

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 Miller regarding the proposed development, namely: design of the proposed dormer; the layout of the ground floor; whether there would be stairs in the building or whether the dormer was just to provide additional light; and elevations of the building.

**The outcome of the review by the Local Review Body was that the decision of the appointed officer to refuse the application was 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 were as follows:-

Although the formation of roof lights to the rear elevation would be acceptable as there would be no adverse impact on the wider Conservation Area or on surrounding residential amenity, the proposed dormer results in a building that fails to comply with the guidelines contained in Section 3.1.6 "Outbuildings" of the Supplementary Guidance: Householder Development Guide, and with Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan, by virtue of its resultant design and massing which would result in an obtrusive structure within the street scene, out of keeping with that of the locale thereby having a detrimental impact on the residential character and visual amenity of the surrounding area. Furthermore, the introduction of a dormer window would fail to demonstrate due

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regard for its context and would have a negative impact on the character of the Albyn Place/Rubislaw Conservation Area, contrary to Policy D4 (Historic Environment) of the Aberdeen Local Development Plan, Historic Environment Scotland Policy Statement (HESPS) and Scottish Planning Policy (SPP). The LRB considered that the proposal does not accord with the provisions of the Development Plan and that there were no material planning considerations that would warrant approval of this application.

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

- **COUNCILLOR MARIE BOULTON, Chairperson**

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