

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 17 May 2018. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor , Chairperson; and Councillors Councillor Donnelly, the Depute Provost and Duncan.

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

**<HTTPS://COMMITTEES.ABERDEENCITY.GOV.UK/IELISTDOCUMENTS.ASPX?CID=284&MID=6383&VER=4>**

### **REPLACEMENT WINDOWS TO FRONT AND REAR OF 77 WHITEHALL ROAD - 171507**

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 replacement windows to the front and rear of 77 Whitehall Road, 171507/DPP.

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 Lynsey McBain as regards the procedure to be followed and also, thereafter, by Mr Andrew 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 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 Sheila Robertson, Planning Technician; (2) the decision notice dated 23 February 2018; (3) copies of the plans showing the proposal; (4) links to the planning policies referred to in the delegated report; (5) and 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 explained that the site subject to the review was a three storey traditional granite tenement building comprising 6 flats on Whitehall Road, close to its junction with Hamilton Place. The review related to the ground floor right flat, which had a tripartite

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timber sash and case window to the front and a casement aluminium framed window to the rear. Both were finished in white. The surrounding area was largely residential with traditional tenements and houses and was located within the Albyn Place/Rubislaw Conservation Area.

Mr Miller indicated that the application sought permission for a replacement of the windows, and noted that to the front, the three windows would be replaced by PVCu framed windows with a sash and case opening mechanism, and to the rear, the window would be replaced by a single paned PVCu window.

Mr Miller outlined that the request sought the review of the decision of the appointed officer to refuse the application under delegated powers and the stated reasons for refusal were as follows:-

Although the proposed uPVC window to the rear elevation would be acceptable, as there would be no adverse impact on the wider Conservation Area, the replacement of the traditional white timber framed windows on the principal elevation with uPVC would not comply with Policies D1 (Quality Placemaking by Design), D4 (Historic Environment) and H1 (Residential Areas) of the Aberdeen Local Development Plan as the proposal would result in the loss of a traditional material and, as such, fails to demonstrate due regard for its context where the retention and reinstatement of traditional window forms and materials, or suitably sympathetic alternatives, are necessary to maintain and enhance the character of the Conservation Area. The replacement of traditional timber framed windows with modern frames, formed in uPVC, would have a negative impact on the character and appearance of the Conservation Area, and would therefore not align with Scottish Planning Policy and Historic Environment Scotland's Policy Statement. Moreover, they also do not accord with the Supplementary Guidance: The Replacement of Windows and Doors and Historic Environment Scotland's Managing Change Document: Windows. Approval would risk setting an unwelcome precedent for further unsympathetic window replacement within the Conservation Area, contrary to the aims of the Albyn Place/Rubislaw Conservation Area Character Appraisal and which, if replicated, could lead to a significant cumulative erosion of the Conservation Area's character and appearance. It is considered that the proposal does not accord with the provisions of the Development Plan and that there are no material planning considerations that would warrant approval of this application.

In regards to consultees and objections, Mr Miller advised that no letters of objection were received.

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

- D1 – Quality Placemaking by Design: Requires development to be of a high standard of design.

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- D4 – development should comply with SPP and HESPS.
- Windows SG – all windows on public elevation in Conservation Areas should be timber.
- SPP and HESPS – Development should preserve and enhance the character of conservation areas.
- Managing Change in Historic Environment: Windows

In relation to the Notice of Review, the applicant highlighted that (a) the sash and case windows cannot be opened as they don't have handles, (b) other properties had windows that weren't original and (c) windows would match the shape and profile of existing windows.

The Local Review Body then asked questions of Mr Miller in regards to 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.

Mr Miller highlighted that when determining the appeal, members should take into consideration any material considerations they feel would be relevant to the application that would point to either overturning the original decision or dismissing the review.

**Members agreed unanimously to overturn the decision of the appointed officer to refuse the application and therefore approve the application unconditionally.**

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:-

Whilst not fully compliant with the Windows and Doors Supplementary Guidance and policy H1 – Residential Areas, due to the mixture of window types within the block of flats, coupled with a wide variety of window types in the surrounding area, it is considered the proposed replacement windows would not result in an adverse impact on the character of the surrounding area.

**ERECTION OF FOUR FLATS WITH ASSOCIATED CAR PARKING AND LANDSCAPING AT 44-46 BEDFORD ROAD - 171410**

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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 the proposed erection of four flats with associated car parking and landscaping at 44-46 Bedford Road Aberdeen, P171410/DPP.

The Chairperson advised that the LRB would again be addressed by Mr Andrew Miller and reminded members that although Mr Miller 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.

In relation to the application, the LRB had before it (1) a delegated report by Gavin Clark, Senior Planner; (2) the decision notice dated 26 November 2017; (3) copies of the 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 explained that the site subject to the review formed part of the rear garden of an end-terrace 2.5 storey tenement building with corner shop, adjacent to Bedford Place, and the surrounding area was largely residential with a retail park to the north west.

Planning permission was sought for the erection of a 3¾ storey block of four 2-bedroom flats at the rear of the site, with the remainder of the site incorporating 4 off-street parking spaces. The proposals highlighted that the flats would front to Bedford Place, with the new access also to Bedford Place. There would be landscaped areas to the rear and side of the proposed block of flats, with another area of landscaping to the rear of the existing flats at 44-46 Bedford Road.

Mr Miller outlined that the request sought the review of the decision of the appointed officer to refuse the application under delegated powers and the stated reasons for refusal were as follows:-

1. The development has not been designed with due consideration for its context, with a roof design that does not complement the character and appearance of the surrounding area, and the use of materials which are not readily found in the surrounding area. The proposal would also provide inadequate amenity space for proposed residents and would have an adverse impact on the amenity afforded to properties in the surrounding area. As a result the proposal fails to accord with Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan and its associated Supplementary Guidance: The Sub-Division and Redevelopment of Residential Curtilages;

2. Insufficient information has been submitted with regards to the provision of visibility splays, the width of parking bays and to indicate that vehicles could

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enter and exit the site safely in a forward gear. As a result the proposal fails to accord with Policy T2: Managing the Transport Impact of New Development of the Aberdeen Local Development Plan and the associated Supplementary Guidance: Transport and Accessibility; and

3. The applicants have failed to demonstrate that adequate waste provision would be provided within the sites curtilage, and as a result the proposal does not accord with Policy R6: Waste Management Requirements for New Development of the Aberdeen Local Development Plan and its associated Supplementary Guidance: Resources for New Development.

In regards to consultees and objections, Mr Miller advised that no letters of objection were received, however comments were from Historic Environment Scotland in respect of associated Listed Building Consent.

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

- H1 – Residential Areas: all residential development should:
  - Not constitute overdevelopment
  - Not have an unacceptable impact on character and appearance of surrounds
  - Not result in the loss of valuable/valued areas of open space
  - Comply with relevant supplementary guidance.
- D1 – Quality Placemaking by Design: Requires development to be of a high standard of design.
- T2 – Development should minimise car dependant travel and maximise sustainable and active travel.
- Transport and Accessibility SG – contains maximum parking standards for development (1.5 spaces per unit in this case).
- R6 – Waste Management Requirements for New Development

Mr Miller highlighted that in relation to consultation, 3 letters of objection were received, which raised material which included the following:-

- There would be overlooking and overshadowing of neighbouring gardens;
- All existing garden spaces from the property at 44 Bedford Road would be removed, resulting in overdevelopment of the plot
- There is insufficient space for waste storage
- The proposed development is not in keeping with the character and appearance of the surrounding area
- There would be an adverse impact on road safety relating to access, manoeuvrability and the level of parking proposed
- The loss of plants and shrubbery would impact on wildlife

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Roads Development Management commented that there were good links to public transit, and parking numbers were sufficient although spaces were smaller than the minimum standards.

Mr Miller noted that outstanding issues remained, in that no swept path analysis had been provided to demonstrate how vehicles could enter and exit in a forward gear, nor had adequate visibility splays been provided. Four cycle spaces would also be required, along with waste and recycling storage.

In regards to Environmental Health, there was no objection but requested an advisory note which related to hours associated to construction works and information in relation to ground preparation and construction works be included.

Waste Strategy requested details be provided on necessary waste requirements.

In relation to flooding, there was no objection, however an advisory note on permeable materials where suitable and rain water harvesting was recommended.

In relation to the Notice of Review, the applicant highlighted that:-

- there was a willingness to approve 8 services apartments on the site (subject to signing of legal agreement);
- a smaller number of mainstream flats with parking is considered to be appropriate;
- issues of amenity were considered to be met with the overall reduction in the volume of the building.
- the access and waste issues that were raised as reasons for refusal could be dealt with by condition in the opinion of the applicant.

Mr Miller then answered various questions from members.

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.

Mr Miller highlighted that when determining the appeal, members should take into consideration any material considerations they feel would be relevant to the application that would point to either overturning the original decision or dismissing the review.

**Members agreed unanimously to uphold 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

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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:-

1. The development has not been designed with due consideration for its context, with a roof design that does not complement the character and appearance of the surrounding area, and the use of materials which are not readily found in the surrounding area. The proposal would also provide inadequate amenity space for proposed residents and would have an adverse impact on the amenity afforded to properties in the surrounding area. As a result the proposal fails to accord with Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan and its associated Supplementary Guidance: The Sub-Division and Redevelopment of Residential Curtilages;

2. Insufficient information has been submitted with regards to the provision of visibility splays, the width of parking bays and to indicate that vehicles could enter and exit the site safely in a forward gear. As a result the proposal fails to accord with Policy T2: Managing the Transport Impact of New Development of the Aberdeen Local Development Plan and the associated Supplementary Guidance: Transport and Accessibility; and

3. The applicants have failed to demonstrate that adequate waste provision would be provided within the sites curtilage, and as a result the proposal does not accord with Policy R6: Waste Management Requirements for New Development of the Aberdeen Local Development Plan and its associated Supplementary Guidance: Resources for New Development.

**Councillor Marie Boulton, Chairperson**

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