

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 20 September 2018. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Copland and Councillor Donnelly, the Depute Provost.

The agenda and reports associated with this minute can be found at:-  
<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=284&MId=6538&Ver=4>

### REVIEWS

#### **24 RUBISLAW DEN SOUTH - ERECTION OF GARAGE/HOBBY WORKSHOP TO REAR - 180328**

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 erection of a garage/hobby workshop to the rear of 24 Rubislaw Den South, Aberdeen, Planning Reference 180328DPP.

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, Mr Mark Masson with regards to the procedure to be followed and also, thereafter, by Mr Gavin Evans 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 Mr Masson, 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 Sheila Robertson, Planning Technician; (2) the application dated 7 March 2018; (3) the decision notice dated 9 May 2018 (4) links to the plans showing the proposal and planning policies referred to in the delegated report; and (5) the Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application.

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The LRB was then addressed by Mr Evans who advised that the review had been submitted with all necessary information within the time limit of three months following the decision of the appointed officer, however he then indicated that new evidence presented by the applicants in relation to the condition of the boundary wall had been submitted and therefore required approval from the LRB to accept the letter as part of the proceedings.

The Local Review Body agreed to accept the new evidence in to the proceedings as they were satisfied that the information could not have been submitted earlier.

Mr Evans then described the site advising that it was a detached 2 storey dwelling, constructed in grey granite and situated on the northern side of Rubislaw Den South within a large feu. The rear garden extended to more than 40m and adjoins Rubislaw Den itself, to which access is afforded only to residents of the surrounding properties. The building was Category B listed and lies within the Albyn Place/Rubislaw Conservation Area.

He indicated that an extension to the rear and gable was currently under construction and an outbuilding, described as a 'potting shed' sits in the North East corner of the rear garden, extending to approximately 25sq.m, constructed in black painted timber with a brick basecourse and a pitched roof.

In terms of the proposal, Mr Evans intimated that the application proposed a single storey outbuilding within the rear garden, described as a garage/hobby workshop. The proposed outbuilding extended to circa 36sqm, and would be sited to the rear of the house, circa 7.5m from the rear extent of the extension that was under construction at the time of the appointed officer's decision. It would directly abut the boundary wall, and would open onto an area of new paving between the recent extension and the outbuilding (circa 28sqm).

Mr Evans explained that due to the ground levels rising towards the rear of the garden, a degree of excavation (circa 1m) was proposed in order to form a level surface for the building and reduce its visual impact from neighbouring feus.

He advised that the building would measure 2.6m to eaves, with an overall height of 4m. It was proposed that the outbuilding be constructed with a red brick base course, black painted vertical timber linings and a slate roof, to match the styling of the potting shed at the far end of the garden. The Garage to the eastern gable of the building had doors both front and back that would allow for vehicles to gain access to the proposed area of new paving and outbuilding.

In relation to the appointed case officer's decision, Mr Evans advised that the reasons for refusal made reference to the following factors:-

- Conflict with Policies D1 (Quality Placemaking by Design) and D4 (Historic Environment) in that the proposal had not been designed with due consideration for its context and setting;

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- Negative impact on the setting of the Listed Building by reason of its scale, siting, materials and design;
- Although the proposal would impact on the historical pattern of development, any adverse impact on the visual character and amenity of the Conservation Area would be limited since the structure would not be readily visible from any public area;
- The excavations could undermine the existing boundary wall and affect the fabric of the listed wall; and
- Contrary to the provisions of Scottish Planning Policy, Historic Environment Scotland Policy Statement, Managing Change in the Historic Environment: Setting and by extension with Policy D4 (Historic Environment) of the Aberdeen Local Development Plan.

In relation to the appellant's case, Mr Evans indicated that the submission contends as follows:-

- It supports the achievement of the vision and aims of the Strategic Development Plan in relation protecting and improving the historic environment, catering for the needs of the whole population and creating a high quality of life;
- Was in accordance with the relevant Local Development Plan policies specifically, Policies H1, D1, and D4;
- Complied with the requirements of Supplementary Guidance: Householder Development Guide in terms of dimensions and style;
- Would have no adverse impact on the setting of the listed building by virtue of the quality and nature of both the design and the materials proposed, as well as the proposed garage/workshop being set back from the existing building by a distance of over 7 metres;
- Would not undermine the existing boundary wall and affect the fabric of the listed wall;
- Would allow for greater enjoyment of the historic environment through the provision of greater residential amenity for the residents of the listed building at 24 Rubislaw Den South; and
- Was consistent with the principles of Scottish Planning Policy and the Historic Environment Policy Statement in terms of allowing for positive change in the historic environment.

Mr Evans intimated that consultations were undertaken with the Council's Roads Development Management team and no concerns were raised. There were no representations/objections received.

Mr Evans advised that the applicant had expressed the view that no further procedure was required (e.g. hearing or site visit), and that the review could be concluded based on a review of the information provided.

The Chairperson and Councillors Copland and Donnelly all indicated in turn that they each had enough information before them and therefore agreed that a site visit was not

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required and that the review under consideration should be determined without further procedure.

Mr Evans outlined the relevant policy considerations, making reference to the following in the Aberdeen Local Development Plan 2017:-

- H1 – Residential Areas: Householder Development should particularly;
- D1 – Quality Placemaking by Design;
- D4 – Historic Environment; and
- Supplementary Guidance (Householder)

In terms of material considerations, Mr Evans advised that in determining the appeal, members should take into consideration any material considerations they feel are relevant to the application that would point to either overturning the original decision or dismissing the review.

He explained that in addition to the relevant policies from the development plan, the following would be material considerations:-

- Scottish Planning Policy (re Listed Buildings and Conservation Areas);
- Historic Environment Scotland Policy Statement;
- ACC Albyn Place & Rubislaw Conservation Area Character Appraisal and the overarching Management Plan for Aberdeen's Conservation Areas;
- HES Managing Change guidance on 'Setting' and 'New Design in Historic Settings';
- New evidence presented by the applicants in relation to the condition of the boundary wall and its ability to withstand construction of the proposed outbuilding.

He made reference to Scottish Planning Policy, specifically regarding listed buildings and the conservation area and Policies P9, P18 and P49.

He indicated that 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 and I can go through these if necessary.

He suggested that an appropriate condition could be that no development to which this planning permission related shall take place unless details of the finishing materials of the proposed dormer was submitted to and approved in writing by the Planning Authority. Thereafter, the development should be constructed in accordance with the agreed details. The reason being, to ensure that the extension would be architecturally compatible in terms of design and scale with the original dwelling and the surrounding area.

The Local Review Body then asked questions of Mr Evans, specifically regarding materials being used, whether there was rear lane access and whether the proposal could be seen from the front of the property.

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The Convener and Councillor Donnelly made reference to the scale and design of the proposal, specifically in terms of the conservation area and advised that it was acceptable, and that no objections had been received.

Councillor Copland supported the appointed officer's reasons 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 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.

**Members agreed by majority to overturn the decision of the appointed officer and to approve the application subject to the following conditions:-**

(01) Construction Methodology

The proposed development shall not be commenced unless a methodology statement relating to the construction of the outbuilding has been submitted to, and agreed in writing by, the planning authority. This methodology statement shall include particular reference to the relationship between the construction works and the historic boundary wall. Thereafter, all works shall be carried out in accordance with any methodology statement so agreed – in the interests of protecting the historic boundary wall from damage related to the construction of the approved outbuilding.

(02) Materials/Finishes

No development shall be undertaken unless further details of the materials to be used in the construction of the approved building (including physical samples) have first been submitted to and agreed in writing by the planning authority. Thereafter all works shall be carried out in accordance with the materials so agreed – in order to ensure that materials are of a standard appropriate to the setting of a Listed Building.

Reason: In order to ensure the external finishes of the proposed extension are suitable for its location within the Great Western Road Conservation Area.

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

The outbuilding was of an appropriate scale and would not result in an over-development of the rear curtilage. It would not be unduly prominent by virtue of its location to the rear of the listed building, with screening offered by the existing boundary walls. Its design, which incorporates natural slate and other materials to match the existing outbuilding to the rear of the plot, was considered to demonstrate due regard for its context as required by policy D1 (Quality Placemaking by Design) and would not result in any adverse impact on the special interest of the Listed Building or its setting. For these reasons, the proposal was also found to comply with policies H1 (Residential Areas) and D4

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(Historic Environment), as well as the associated Householder Development Guide Supplementary Guidance, as it related to outbuildings. It was not considered that the proposal would result in any adverse impact on the character or appearance of the Albyn Place/Rubislaw Conservation Area.

**20 WEST MOUNT STREET - ERECTION OF 1.5 STOREY REAR EXTENSION - 180129**

2. The Local Review Body were advised that this review would now be considered on 3 October 2018.

**42A SEAFORTH ROAD - ERECTION OF RESIDENTIAL DEVELOPMENT OF EIGHT TWO BEDROOM FLATS AND ASSOCIATED CAR PARKING AND AMENITY SPACE**

3. 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 application for the erection of a residential development of eight two-bedroom flats and associated car parking and amenity space at 42A Seaforth Road, Aberdeen, Planning Reference 180352DPP.

The Chairperson advised that the LRB would again be addressed by Mr Gavin Evans and reminded members that although Mr Evans 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 Mr Gavin Clark, Senior Planner (2) the original planning application dated 5 March 2018; (3) the decision notice dated 3 May 2018; (4) links to the planning policies and plans referred to in the delegated report; and (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement; and (6) letters of representation relating to the planning application.

Mr Evans advised that the review had been submitted with all necessary information within the time limit of three months following the decision of the appointed officer.

Mr Evans described the site, advising that it extended to approximately 636 sqm and was located on the southern side of Seaforth Road, at its junction with Urquhart Lane, incorporating a single storey, pitched-roof 'warehouse' type building. The building was constructed of synthetic aggregate blockwork with a metal sheet roof oriented with its gable facing onto Seaforth Road.

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He indicated that the appointed officer's report described the premises as currently vacant and most recently used as a storage shed for a plumbing business. The surrounding area was largely residential, which was reflected in its residential zoning in the Aberdeen Local Development Plan, and incorporated a mix of housing styles and scales, from 2 storey - four in a block flats, to more dense 3 and 4 storey flatted developments of both traditional and modern design.

Mr Evans provided details of the planning history of the site, prior to outlining the proposal which sought permission for the erection of a four storey building containing 8 flats. The flatted building would have a footprint of approximately 176 sqm, with the site accommodating 6 car parking spaces to the rear of the building and one motorcycle space, accessed via Urquhart Lane (a one-way street only accessible by vehicles from the south via Urquhart Road).

He advised that landscaped amenity space would also be provided to the rear, with cycle lockers and bin storage facilities. A section of the boundary wall would be reduced to 1m in height to provide visibility at the site access. The building would be finished in a buff-coloured synthetic stone at ground floor level, with a cream/beige smooth render and then grey zinc-effect cladding panels to the top floor, with a dark grey sarnafil roof. Windows would be in grey PVCu with black steel railings and Juliet balconies.

Mr Evans made reference to the appointed officer's decision outlining the factors and reasons for refusal as follows:-

- The design, height, scale and massing does not demonstrate due consideration for its context, contrary to Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan;
- The proposed 4-storey, flat roofed building (at 11.3m rising to 11.9m) would be incongruous against the two-storey hipped roof properties to the west (measuring 5.4m to gutter and 9.2m to apex per report). As a result, the officer's report concluded that the development did not comply with Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the ALDP.

In relation to the appellant's case, Mr Evans indicated that the Notice of Review Statement outlined the following:-

- The development proposal has been reduced from ten to eight flats;
- The level of agreed Developer Obligations has been increased;
- A car club space is to be partially funded by the applicants;
- The amount of amenity space within the site has been increased;
- External materials have been altered to suit the requirements of the Planning Service;
- The Planning Service previously accepted the design proposed; and
- There have been no objections from neighbours to the west or east of the development site.

He explained that the applicants attached significant weight to an earlier Local Review, despite its decision to uphold the appointed officer's decision and refuse to grant

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planning permission. It was contended that members of the LRB at that time agreed that the design, number of units and principle of the development was acceptable. The applicants highlighted that the LRB's decision to dismiss the review was based on a 'lack' of amenity space and dominance of car parking. It was contended that Councillors sitting on the LRB stated that they would support a revised scheme if the layout was amended to reduce the number of proposed parking spaces and provided an increased amount of 'amenity space'. The applicants contended that the current proposal had been revised in accordance with the comments made by the LRB at that time (March 2016).

In relation to consultation, Mr Evans advised that the Council's Roads Development Management Team initially objected to the application due to the shortfall in parking provision within the site, and concerns in relation to congestion in streets in the surrounding area. This objection had been removed following agreement by the applicant to provide contribution towards half of a car club car (with the other half to be paid by the car club) and associated works required to provide this space.

He indicated that the Council's Environmental Health Team had no objection to the proposed development. Were permission granted they had suggested an informative in relation to working hours (with regards to demolition and construction operations).

He advised that no response had been received from the Developer Obligations Team, as the proposal was almost identical to that previously refused, it was assumed that developer obligations would be similar to those of the previous application. He intimated that this should be clarified through consultation with the Developer Obligations Team if members were minded to approve the application.

Mr Evans intimated that the Council's Flooding and Coastal Protection Team had no objections to the proposed development, as the proposal did not create a flood risk. They had recommended the use of permeable materials and rain water harvesting within the design.

Mr Evans advised that the Waste Strategy Team had advised of the waste requirements for the proposed development and indicated that if there was consent to grant the application, this would be added as an informative.

In terms of representations submitted, Mr Evans advised that there were two letters of objection received at the time of the application. The matters raised included:-

- development would be out of keeping with the surrounding area;
- too high and would impact on the amount of light afforded to properties in the surrounding area;
- highlight earlier refusals for very similar schemes;
- concerns in relation to parking capacity in streets in the surrounding area; and
- concerns regarding number of flats (including those unsold) in the surrounding area, which was not a material consideration.



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Mr Evans advised that the applicant had expressed the view that a hearing session or sessions would be beneficial in allowing for a proper examination of the relevant material considerations, including the views of the Local Review Body of March 2016.

The Chairperson and Councillors Copland and Donnelly all indicated in turn that they each had enough information before them and therefore agreed that a site visit was not required and that the review under consideration should be determined without further procedure.

The Local Review Body then heard Mr Evans outline the relevant policy considerations, as follows:-

Aberdeen Local Development Plan 2017

- H1 - proposals for new development will be acceptable in principle if they:
  - does not constitute over development;
  - does not have an unacceptable impact on the character and amenity of the surrounding area;
  - does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010; and
  - complies with Supplementary Guidance.
- D1 – Quality Placemaking by Design: Requires development to be of a high standard of design, which demonstrates an understanding of its context;
  - Distinctive, welcoming, safe and pleasant, easy to move around, adaptable and resource efficient.
- D5 – requiring the re-use of any granite from duntakings in new development
  - I1: Infrastructure Delivery and Planning Obligations;
  - Policy requires developer contributions where development would result in additional demands on local services or infrastructure.
- T2: Managing the Transport Impact of Development;
  - Required measures to be taken to minimise traffic generated and to maximise opportunities for sustainable and active travel.
- T3: Sustainable and Active Travel;
  - Encourages travel by sustainable means and priority for walking/cycling. Highlights potential for car sharing and car clubs as a means of reducing transport impacts.
- H5: Affordable Housing:
  - Housing developments of five units or more are required to contribute no less than 25% of the total number of units as affordable housing.
- NE6: Flooding, Drainage and Water Quality:
  - Relates to assessment of flood risk and measures to ensure adequate drainage for surface water
- R6: Waste Management Requirements for New Developments;
  - Requires provision for refuse and recycling storage and collection
- R7: Low and Zero Carbon Buildings, and Water Efficiency:

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- Requires buildings to achieve carbon reductions through on-site microgeneration or by achieving a higher efficiency value than otherwise applicable via Building Regulations
- CI1: Digital Infrastructure:
  - All new residential and commercial development will be expected to have access to modern, up-to-date high-speed communications infrastructure.

Supplementary Guidance:-

Planning Obligations;  
Affordable Housing;  
Transport and Accessibility; and  
Flooding, Drainage and Water Quality

Mr Evans advised that in determining the appeal, members should 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.

He indicated that in addition to the relevant policies from the development plan, the following would be material considerations:

- Scottish Planning Policy

Mr Evans intimated that 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.

**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 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 was as follows:-

1. The proposed building, due to its architectural design, height, scale and massing has not been designed with due consideration for its context. The proposal would therefore be contrary to the requirements of Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan.
2. The proposed building, which would be set over four storeys, with a flat roof and extend to 11.3m (and 11.9m on its eastern side) in height when viewed

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against the two storey hipped roof properties to the west (5.4m to gutter and 9.2m to apex), would introduce an incongruous relationship between the two buildings in terms of overall massing and form when viewed in the surrounding street scene. The proposal would therefore be contrary to the requirements of Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan.

- **COUNCILLOR MARIE BOULTON, Chairperson.**

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