

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 3 October 2018. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Macdonald and Nicoll.

The agenda and reports associated with this minute can be found at:-  
<HTTPS://COMMITTEES.ABERDEENCITY.GOV.UK/IELISTDOCUMENTS.ASPX?CID=284&MID=6543>

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

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 1.5 storey extension to the rear of 20 West Mount Street, Aberdeen, Planning Reference 180129DPP.

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 Ms Jacqui Thain, Planning Technician; (2) the planning application dated 1 February 2018; (3) the decision notice dated 5 June 2018 (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application; and (6) two letters of representation.

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

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

3 October 2018

Mr Evans described the site, advising that it is that of a 1.5 storey (meaning single masonry storey with accommodation in the roof) mid-terrace dwelling, constructed in grey granite, with a slated roof, and situated on the northern side of West North Street, which runs between View Terrace and Mount Street in Rosemount. Its rear garden extends approximately 20m from the rear of the dwelling (as extended). The building lay within the Rosemount & Westburn Conservation Area and was not listed. There was an existing single-storey, flat-roofed extension to the rear of the building, which projected circa 4.7m along the western boundary (with no.22).

Mr Evans indicated that the application proposed an extension to the rear of the building, providing accommodation across two floors. The extension would project 4.7m from the rear face of the original building, matching the projection of the existing flat-roofed structure, but with a larger footprint. The first-floor accommodation would be set back, projecting 4m from the rear face, and would be positioned along the western boundary.

He intimated that the Appointed Officer's reasons for refusal made reference to the following factors:-

- Due to its height, scale, design and massing, the extension is not designed with due consideration for its context and as a result, it would have an unacceptable impact on neighbouring properties;
- The proposal results in the loss of part of the historic fabric;
- Excessive scale, which amounts to a 2-storey extension to a 1 ½ storey house would result in unacceptable impact on the character and amenity of the surrounding Conservation Area;
- For these reasons, proposal failed to comply with Scottish Planning Policy, Historic Environment Scotland Policy Statement, Policies H1, D1, D4 and D5 of the Aberdeen Local Development Plan, as well as its Householder Supplementary Guidance (HHSG) and the Managing Change in the Historic Environment Scotland guidance on 'Extensions'; and
- No other material considerations that were sufficient to outweigh the development plan.

Mr Evans outlined the appellant's case as follows:-

- That the proposed extension helped to address an existing overlooking issue from the side-facing windows at first floor level at number 18 (adjoining neighbour to the East), which looked directly onto the garden and existing rear extension of no. 20. It was contended that this existing relationship was not addressed by the appointed officer's decision;
- Stated that Council officers did not raise major concerns about the principle of a 1.5 storey extension during pre-application discussions, and that the authority's position seemed to change following involvement of conservation staff;
- Concerns were raised in relation to loss of fabric which could be addressed through re-use of materials in the proposal (link to policy D5). It was stated that no opportunity was given to do so.  
(Mr Evans intimated that the LRB was considering the proposal in the form it was determined, not a revised proposal. The applicant could make a revised proposal

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

3 October 2018

taking account of matters raised in the Appointed Officer's refusal. Policy D5 and associated national policies relating to the historic environment sought retention of fabric in the first instance, rather than simply requiring that downtakings were reused. Mr Evans advised Members that they should consider whether this level of fabric loss was necessary);

- Queried appointed officer's description of the proposed extension as '2 storey'; (Mr Evans advised that a 1.5 storey description was normally applied where upper floor accommodation was contained within roofspace. The walls of the extension protrude above the wallhead level of the original house, such that the extension effectively has 2 full 'masonry/solid' storeys).
- Noted that the sole objector to the application (no.18) had since sold the property and that other local residents have offered verbal support; (Mr Evans intimated that the lack of objection did not equate to acceptability or Development Plan compliance. He advised that Members should be mindful to assess the application on the basis of impact on any future residents, irrespective of their identity;
- Cited precedent for large rear extensions at 16, 18 and 24 West Mount Street and noted that the planning authority recognised the extension to no18 was a 'bad neighbour' in pre-application correspondence. (Mr Evans referred to point 3 in the HHSG 'General Principles' advising that extensions approved prior to introduction of this Guidance did not represent any 'precedent' for proposals that did not comply with criteria set out. The term 'bad neighbour' was relevant in terms of the HHSG, which at Appendix 3 set out a methodology for assessing loss of daylight to 'habitable rooms' in neighbouring properties, highlighting that these guidelines "could only reasonably be applied to buildings which were themselves good neighbours, standing a reasonable distance from the boundary and taking only their fair share of light. Existing windows which do not meet these criteria could not normally expect the full level of protection." and
- Stated that the applicant and agent had gone to every length to ensure that the proposal could avoid a detrimental impact on either the character or amenity of the area, and contended that this has been achieved.

Mr Evans explained that consultations were undertaken with the Council's Roads Development Management team who indicated that that the extra bedroom proposed would not result in any significant increase in demand for on-street parking, therefore no objection was submitted.

The Local Review Body were advised that one letter of objection was received.

Mr Evans then indicated that the applicant had expressed the view that further procedure was required, suggesting that one or more hearing sessions and a site inspection should be undertaken.

At this juncture, Councillor Nicoll indicated that he had enough information before him and intimated that a site visit was not required and that the review under consideration should be determined without further procedure, however the Chairperson and

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

3 October 2018

Councillor Macdonald indicated that a site visit would give them a better perspective of the site and proposal and by majority, the Local Review Body agreed that the review under consideration should be adjourned in order for a site visit to be conducted in due course.

**68 BURNS ROAD - INSTALLATION OF REPLACEMENT WINDOWS TO FRONT AND REAR - 181046**

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 application for the installation of replacement windows to the front and rear of the property at 68 Burns Road, Aberdeen, Planning Reference 181046DPP.

The Chairperson advised that the LRB would again be addressed by Mr Gavin Evans 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 Roy Brown, Planning Technician; (2) the planning application dated 25 June 2018; (3) the decision notice dated 31 August 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.

Mr Evans described the site, advising that it was an early twentieth century mid-terraced two storey granite dwelling in a residential area, and its associated front and rear curtilage. The dwelling has a southwest facing principal elevation fronting Burns Road and the northeast (rear) boundary of the site bounds Forbesfield Lane. The dwelling had a three-bay window at ground floor level which has one-over-one timber framed sash and case windows which had modern framed secondary glazing fixed to the outer frames of these windows. There was no glazing in the lower sash of the central window of the bay and it was currently boarded up.

In terms of the proposal, Mr Evans indicated that there was three sash and case windows in the front bay with uPVC sash and case replicas and at the time of the case officer's visit, the lower pane in the central part of the bay was boarded up. The proposal sought the replacement of existing uPVC window in rear extension with a uPVC window of different colour and fenestration pattern and the replacement of a traditional rooflight in rear slope of roof with a conservation-style rooflight with central glazing bar.

Mr Evans referred to the appointed officer's reasons for refusal which outlined the following factors:-

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

3 October 2018

- That no justification had been provided to demonstrate that the timber sash and case windows on the front elevation had deteriorated beyond practicable economic repair;
- That the proposed modern uPVC windows on the front elevation would adversely affect the historic architectural integrity of the building and the character and appearance of the wider Great Western Road Conservation Area;
- That it could set an unwelcome precedent for similar development, resulting in cumulative erosion of the character of the Conservation Area;
- For the above reasons, the proposal was concluded to conflict with the principles of Scottish Planning Policy, Historic Environment Scotland Policy Statement, policies H1 – Residential Areas, D4 – Historic Environment, and D1 – Quality Placemaking by Design of the Aberdeen Local Development Plan, as well as the associated Supplementary Guidance ‘the repair and replacement of windows and doors’;
- The proposal was also considered to undermine the aims of the Great Western Road Conservation Area Character Appraisal and Historic Environment Scotland’s Managing Change guidance relating to the replacement of windows; and
- No other material considerations that were sufficient to outweigh the development plan.

In relation to the appellant’s case, the submission contended as follows:-

- The existing frames were beyond economical repair; (Mr Evans advised that no supporting window condition survey had been submitted);
- Highlighted that the existing lower middle pane in front bay is completely shattered and could have caused injury. Currently boarded up, this presents a security concern;
- Highlighted that other properties in the street have been replaced with uPVC as proposed; and (Mr Evans referred to point 3 in the Householder Supplementary Guidance ‘General Principles’ advising that developments approved prior to introduction of this Supplementary Guidance did not represent any ‘precedent’ for proposals that did not comply with criteria set out; and
- Sought clarification of the officer’s decision and confirmation that a site visit was undertaken.

Mr Evans intimated that no consultations had been issued and no objections had been received in relation to the proposal.

Mr Evans advised that the applicant had expressed the view that further procedure was not required, and therefore the review may proceed without further procedure, however it was noted that in the submission the applicant also suggested that a site visit may be appropriate.

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

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

3 October 2018

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

Mr Evans highlighted the relevant policy considerations, as follows:-

Aberdeen Local Development Plan 2017

- H1 – Residential Areas: Householder Development should particularly:-
  - Did not constitute overdevelopment;
  - Did not result in an unacceptable impact on the character and amenity of the surrounding area;
  - Complied with Supplementary Guidance (Householder)
- D1 – Quality Placemaking by Design: Required development to be of a high standard of design, which demonstrated an understanding of its context;
- D4 – Historic Environment: Aberdeen City Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, Scottish Historic Environment Policy and its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan.

Supplementary Guidance

1. Windows and Doors:-

- 3.1 and 4.1, Set out that the first principle is one of retaining and repairing original/historic windows, and this would always be promoted over replacement;
- 3.2 and 4.4, Replacing historic windows will only be supported where it could be demonstrated to Aberdeen City Council that they have deteriorated beyond practicable/economic repair;
- 4.6, stated that (if/once replacement has been accepted) replacement windows should replicate original materials, proportions, profiles, dimensions and method of opening;
- Stated that, on public elevations in CAs, introduction of new uPVC as a replacement material was not acceptable; and
- Highlighted that on rear/non-public elevations in CAs, Aberdeen City Council may accept different materials and/or method of opening if historic dimensions/proportions are maintained.

2. Householder:-

General principles:

- Proposals should be 'architecturally comparable in design and scale with the original house and surrounding area'; and
- Earlier developments approved before this guidance was introduced would not be accepted as justification in support of proposals that otherwise fail to comply with these criteria. This was approved by Council in March 2017, and adopted with full Supplementary Guidance status in May 2017.

Mr Evans advised that in determining the appeal, members 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.

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

3 October 2018

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

- Scottish Planning Policy (re Conservation Areas);
- Historic Environment Scotland Policy Statement;
- Aberdeen City Council's Great Western Road Conservation Area Character Appraisal and the overarching Management Plan for Aberdeen's Conservation Areas; and
- Historic Environment Scotland's Managing Change guidance on 'Windows'

Scottish Planning Policy – sets out that proposals should preserve or enhance the character and appearance of the Conservation Area.

Aberdeen City Council's Great Western Road Conservation Area Character Appraisal:-

- Identifies 'character areas' within the Conservation Area. The site was within Area A: Holburn Street to Anderson Drive;
- P10: Burns Road was largely made up of two storey semi-detached and terraced properties. This was also of a similar style, scale and design to those on Gray Street;
- P11: Noted that the character area included a large number of properties with uPVC windows, with varying colour and quality. Nevertheless, there was still some fine examples of retained original sash and case windows;
- P15: Regrettably noted that there were a number of negative factors in the character area, mainly resulting from poor maintenance and use of inappropriate materials, and including the number of uPVC windows of poor quality and design; and
- SWOT analysis of the Character Appraisal at P43 identified uPVC windows as a 'weakness'.

HES Managing Change publication relating to Windows set out detailed guidance, but with the following key points:-

- Maintenance and repair was the preferred means of safeguarding the character of a historic window;
- Where a window was beyond repair, its replacement should be permitted, but should closely match original window design, detail and materials;
- Size, shape, design and proportions, reflective sparkle, pattern of design, materials, details of construction, method of opening, finish etc typically contribute to the character of a historic window;
- In replacing sash windows, materials other than timber (e.g. uPVC) would rarely be acceptable;

Mr Evans intimated that the appointed officer had come to the conclusion that the proposal, though located on a secondary (rear) elevation, was unable to satisfy the other three tests.

Mr Evans advised that should members wish to overturn the decision of the appointed officer, consideration should be given to any conditions which would be appropriate in

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

3 October 2018

order to make the proposal acceptable. However, all conditions must meet the six tests set out by Scottish Government policy.

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 were as follows:-

No justification had been submitted to demonstrate that the timber framed sash and case windows in the bay window of the principal elevation have deteriorated beyond practicable/economic repair. The proposed modern uPVC sash and case windows on the prominent principal elevation would adversely affect the historic architectural integrity of the original building and the historic character and appearance of the surrounding Great Western Road Conservation Area and could set a precedent for similar development in the surrounding area which could cumulatively have a negative impact on the character of the surrounding area. The proposed windows would therefore conflict with the principles of Scottish Planning Policy; Historic Environment Scotland Policy Statement; as well as Policies H1 - Residential Areas, D4 - Historic Environment and D1 - Quality Placemaking by Design of the Aberdeen Local Development Plan; the Supplementary Guidance: 'The Repair and Replacement of Windows and Doors'; the aims of the Great Western Road Conservation Area Character Appraisal; and Managing Change in the Historic Environment: Windows'. There are no material planning considerations that warrant approval of planning permission in this instance.

- **COUNCILLOR MARIE BOULTON, Chairperson**



**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**  
3 October 2018