

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 30 October 2018. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Jennifer Stewart, Chairperson; and Councillors Cameron and Avril MacKenzie.

The agenda and reports associated with this minute can be viewed [here](#).

39 CULTS AVENUE - ERECTION OF 1.5 STOREY EXTENSIONS TO GABLE AND REAR TO FORM STRAIGHT GABLE, RAISE HEIGHT OF CHIMNEY AND FORMATION OF DORMER WINDOW TO FRONT - 180951

1. The Local Review Body (LRB) of Aberdeen City Council met at the Town House to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for the erection of a 1.5 storey extensions to the gable and rear to form a straight gable, raised height of the chimney and the formation of a dormer window to the front, at 39 Cults Avenue Aberdeen.

Councillor Jennifer Stewart 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 Gavin Evans who would be acting as the Planning Adviser to the Body in the case under consideration.

The Chairperson highlighted 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 LRB 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 regarding 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 17 August 2018; (3) links to the plans showing the proposal and planning notices referred to in the delegated report; and (4) the original application and Notice of Review submitted by the applicant.

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.

Mr Evans explained that the application site was a 1½ storey detached dwelling house with a hipped roof, which sits on the western side of Cults Avenue. The dwelling house had velux-style roof windows to both the front and rear elevations, with a garage running down the southern side of the house, along the boundary with no 37.

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Mr Evans noted that the original footprint of the property appeared to have been extended previously to the rear, with the addition of a single-storey conservatory and kitchen extension respectively. Cults Avenue was characterised by large detached dwellings, however there was a considerable degree of variation in colour, materials, roof style and general design within the street.

In regard to the proposal, Mr Evans explained that the application proposed the extension of the dwelling to the site and rear, along with the reconfiguration of the roof to present a traditional pitched roof with straight gables, along with a pitched-roof rear projection and a small area covered by a flat roof. The existing garage, conservatory and kitchen extension would be subsumed within the single form of the extended dwelling. There would also be granite to the principal elevation, to match the existing frontage and render to the sides and rear. There would also be grey roof tiles to the roof and dormer facings.

In relation to the Appointed Officer's reasons for refusal, Mr Evans intimated that it made reference to the following factors:-

- Recognises compliance with some elements of the Householder Development Guide Supplementary Guidance in relation to scale, materials and design, and would have minimal visual impact on the streetscape;
- Nevertheless, states that the proposal would have an adverse impact on the residential amenity currently enjoyed by 37 Cults Avenue, by reason of an unacceptable loss of daylight to a ground floor window serving a habitable room, and would therefore be contrary to Policy H1 (Residential Areas) of the Aberdeen Local Plan in addition to the general principles contained in the Supplementary Guidance: Householder Development Guide.

In relation to the appellant's case, Mr Evans made reference to the submitted Notice of Review which referred to the following points:-

- Relates the proposal to the Strategic Development Plans aim to foster sustainable communities and make the area more attractive for residents to live;
- Highlights that the Appointed Officer's delegated report accepted that the scale, design and dimensions of the proposed dormer to the principal elevation would comply with the Householder Development Guide and would have minimal impact on the amenity of the streetscape. Report also states that the proposed extension would comply with the aims of Policy D1 – Quality Placemaking by Design;
- Highlights that proposals should be assessed against the Development Plan as a whole, and that a single area of non-compliance may not warrant refusal;
- Points out that the extension to no.37 projects further to the rear than the current proposal at 39;
- Notes that the affected window at no.37 is north-facing, with limited outlook at present, and under the terms of the Council's own Supplementary Guidance, cannot be considered a 'good neighbour' and therefore be afforded limited protection;

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- Reiterates that this is the only affected window; that it is not itself a 'good neighbour' as described in the Council's Supplementary Guidance; that the impact on this window was the sole reason for refusal, despite the Council's Supplementary Guidance indicating that daylight assessment is one material consideration among many, rather than the sole determining factor; and that the neighbour expressed no objection to the proposal; and
- Contends that the proposal does comply with policy H1 – residential areas;

Mr Evans advised that there was no consultation response from the local community council or other representations submitted.

Mr Evans indicated that the applicant had expressed the view that no further procedure was required in order to determine the application.

The Chairperson and Councillors Cameron and MacKenzie all indicated in turn that they each had enough information before them and therefore agreed that a site visit nor additional hearings were 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:
 - Not constitute overdevelopment;
 - Not result in an unacceptable impact on the character and amenity of the surrounding area; and
 - Comply with Householder Supplementary Guidance
- D1 – Quality Placemaking by Design: Requires development to be of a high standard of design, which demonstrates an understanding of its context.

In regard to the Supplementary Guidance, (Householder) the general principles were noted as –

- Proposals should be 'architecturally comparable in design and scale with the original house and surrounding area' and 'any extension proposed should not serve to overwhelm or dominate the original form or appearance of the dwelling, and should be visually subservient in terms of height, mass and scale'.
- No extension should result in a situation where amenity of neighbouring properties would be adversely affected in terms of privacy, daylight and general amenity;
- Earlier developments approved before this guidance was introduced will not be accepted as justification in support of proposals that otherwise fail to comply with these criteria;
- Built footprint of a dwelling as extended should not exceed twice that of the original; and
- No more than 50% of the front or rear curtilage should be covered by development.

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

In addition to the relevant policies from the development plan, he indicated that Scottish Planning Policy would be material considerations.

He 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 Policy.

The Local Review Body then asked questions of Mr Evans, specifically regarding the daylight assessment as well as the primary use of the room which would be affected by the loss of daylight at number 37.

Members agreed by majority to uphold the decision of the appointed officer to refuse the application. Councillors Cameron and MacKenzie voted to uphold the decision of the appointed officer and the Convener voted to overturn the decision.

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 consideration 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 proposal is considered to meet certain criteria contained in the Householder Development Guide relating to scale, materials and design, and would have minimal visual impact on the streetscape, the proposal would have an adverse impact on the residential amenity currently enjoyed by 37 Cults Avenue, by reason of an unacceptable loss of daylight to a ground floor window serving a habitable room, and would therefore be contrary to Policy H1 (Residential Areas) of the Aberdeen Local Plan in addition to the general principles contained in the Supplementary Guidance: Householder Development Guide. There are no material planning considerations which would warrant approval of consent in this instance.

28 CADENHEAD PLACE - FORMATION OF A DRIVEWAY - 180883

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 formation of a driveway at 28 Cadenhead Place Aberdeen, 180883/DPP.

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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 Ms Sheila Robertson, Planning Technician; (2) the decision notice dated 3 August 2018; (3) links to the plans showing the proposal and planning notices referred to in the delegated report; (4) comments received from Roads Development Management and (5) the original application and Notice of Review submitted by the applicant.

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.

At this juncture, Mr Evans advised that the applicant had asked that a doctor's note be submitted to be considered as part of the Local Review Body. Lisa Christie, Legal Adviser to the LRB, explained that new material was not normally raised unless there was a reason why it couldn't be raised before and when the original case officer was determining the application unless in exceptional circumstances. Ms Christie advised it was for Members to decide whether to accept the additional information or not. Members discussed the situation and agreed unanimously to accept the additional information, and agreed that the letter was not readily available to the applicant previously, and as such could not submit it to the case officer and unanimously accepted that the letter was not available at the time of the original determination.

Following the acceptance of the additional information, Mr Evans explained that the application related to the proposed formation of a driveway and the application site was located on the south eastern side of Cadenhead Place approximately 17m from its junction with Cadenhead Road and the application related to the ground floor (Left) in a 3 storey block which contained 6 flats conjoined to an identical building. The garden ground pertaining to the application flat comprised an area of front garden ground, approximately 13m in width x 7.7m in depth extending eastwards from the communal front entrance path and wrapping around the eastern gable. Mr Evans also noted that there was a communal path traversing the front garden, close to the frontage of the building and running along the gable to give access to the rear garden. The garden ground was, until recently, entirely laid in grass however an area of slabs had been laid to the front and side of the application property, approximately 4m in width and 17m in length and covering 50% of the garden ground.

In regard to the application, Mr Evans explained that Cadenhead Place was characterised by similar blocks of flats to both sides of the road and terminated in a hammerhead towards the north east with a terrace of 5 single storey dwelling houses at the far end. With the exception of 3 properties, none of the front gardens facing Cadenhead Place have driveways and are undeveloped and laid mainly in grass.

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There are also double yellow line parking restrictions to both sides of the area of road to the immediate north east of the application property.

In relation to the Appointed Officer's reasons for refusal, Mr Evans intimated that it made reference to the following factors:-

- Would result in the unacceptable loss of locally available on-street parking;
- Would exacerbate an existing on street parking problem;
- It would be detrimental to the residents amenity of the area;
- There would be a loss of valued garden ground and the presence of parked cars within the front garden would have an unacceptable impact on the wider visual amenity;
- The proposal would be unsympathetic to the character and appearance of the existing streetscape, adversely affecting existing residential character and visual amenity;
- Would set an undesirable precedent for developments of a similar nature which would be difficult to resist and cumulatively further erode the established visual character and residential amenity of the area; and
- Fails to comply with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan and the Supplementary Guidance.

In relation to the appellant's case, Mr Evans made reference to the submitted Notice of Review which referred to the following points:-

- The appointed officer failed to consider the details of the planning application appropriately;
- The proposed driveway would remove one parking space from the street however currently the area to the front of the property had cars parked across the kerb impacting pedestrian safety; and
- A medical condition meant that the applicant required parking in close proximity to the property and a dedicated parking space would provide that.

Mr Evans advised that there was no consultation response from the local community council or other representations submitted however Roads Development Management submitted comments on the proposed driveway.

Mr Evans indicated that the applicant had expressed the view that a site visit was required before the application could be determined.

The Chairperson and Councillors Cameron and MacKenzie 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.

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

Aberdeen Local Development Plan (ALDP)

- H1 - Residential Areas;
- D1 - Quality Placemaking by Design; and
- Policy T2 - Managing the Transport Impact of Development

Supplementary Guidance

- Householder Development Guide
- Transport and Accessibility

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

In addition to the relevant policies from the development plan, he indicated that Scottish Planning Policy would be material considerations.

He 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 Policy.

The Local Review Body then asked questions of Mr Evans, specifically regarding the medical information and the situation in regard to the applicants need to be parked close to the property, and also questioned about the loss of garden space.

Members agreed unanimously to overturn the decision of the appointed officer to refuse the application and therefore planning permission was granted.

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 consideration 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:-

The Local Review Body recognised that the surrounding area is not characterised by driveway parking, but noted that a submission from the applicant's doctor demonstrated specific needs that could be met through the proposed development. The Review Body noted that the narrowing of Cadenhead Place outside the application property is such that a dedicated parking space for disabled persons could not be accommodated. Whilst the proposal would remove an area of soft-landscaped garden grounds, it was considered that this would not be excessive in the context of the green space remaining within the plot. Incorporating two off-street spaces within the curtilage of the property was also

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seen to contribute to reducing the pressure on existing on-street car parking. This proposal was not considered to result in a wider adverse impact on the character or amenity of the surrounding area, consistent with policy H1 (Residential Areas) and policy D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan.

- **Councillor Jennifer Stewart, Convener**

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