

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 18 December 2018. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Cameron and Donnelly.

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

UNIT 1, STONEYWOOD PARK, ABERDEEN (180989) - EXTENSION OF YARD AREA, INCLUDING ALL ASSOCIATED ENGINEERING AND LANDSCAPING WORKS

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 planning permission for the extension of the yard area, including all associated engineering and landscaping works at Unit 1, Stoneywood Park, Aberdeen, Planning Reference 180989.

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 Stephanie Dunsmuir 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 Dunsmuir, 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 Mr Matthew Easton, Senior Planner; (2) the decision notice dated 25 July 2018; (3) links to the plans showing the proposal and planning notices referred to in the delegated report; (4) letters of representation; and (5) the application and Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application.

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 formed part of a wider woodland belt which separated Stoneywood Park Industrial Estate from the residential development to the south. The area in question measured approximately 75m wide (road frontage to

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Cedar Avenue) and 35m deep (distance back from road to boundary of industrial uses). The site sat immediately south of (and adjoining) the Marwood Group premises, which comprised a single storey warehouse and storage yard, with a narrower planting belt dog-leg around the western edge of the Marwood site.

Mr Evans advised that on the opposite side of Cedar Avenue were residential dwellings within the former Stoneywood Estate development, with two residential properties that immediately abutted the western edge of the site (328 Stoneywood Road and a recently approved and constructed house). The woodland belt was zoned as part of the wider H1 Residential Area.

In respect of planning history, Mr Evans explained that an early application for a larger area of yard with a much thinner landscaping strip to the road frontage at Cedar Avenue had been refused at the Planning Development Management Committee in December 2017.

Mr Evans advised that permission was sought for the extension of the existing industrial premises, via the construction of an enlarged asphalt yard on what was currently a woodland belt separating industrial and residential land uses. He highlighted that the current proposal involved the removal of 77 trees compared to the removal of 93 with the previous application. Mr Evans noted that the decision had stated that 93 trees were to be removed, and explained that this was due to the survey and arboricultural impact assessment carried out in relation to the earlier application in 2017 being resubmitted with no update to reflect the reduced extent of the yard area, however reiterated to Members that the number of trees to be removed was in fact 77. Mr Evans further explained that an 8 metre deep landscape strip would be retained between the new yard space and the southern boundary, and that compensatory planting was proposed in the western portion of the site, with approximately 80 new trees to be planted which would be 70 to 90cm in height at the time of planting.

Mr Evans 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:-

The loss of the woodland and creation of the yard would significantly reduce the amenity of existing and future residents in both the immediate surroundings and wider Stoneywood area, contrary to Policy H1 (Residential Areas).

The removal of the woodland would destroy part of the city's identified Green Space Network (GSN) and erode the overall network in the wider sense. It may also set a principle precedent and encourage other businesses within Stoneywood Industrial Estate to seek the removal of other parts of the woodland belt, exacerbating this negative impact on the GSN. The proposal is therefore contrary to Policy NE1 (Green Space Network), NE3 (Urban Green Space) and Policy NE5 (Trees and Woodland). Neither is the proposal supported by the Scottish Government's Policy on Control of Woodland Removal, as no overriding wider public benefit has been demonstrated. Compensatory planting has been

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proposed but it is considered that this does not adequately compensate for the reduction in area of GSN and associated removal of 93 mature trees.

Whilst the expansion of existing businesses is supported by Policy B1 (Business and Industrial) within such allocated areas, the overall proposal does not see the business activity expanded into such an identified area, but is also clearly contrary to the aim of retaining open space and therefore Policy B1 is not considered to support the proposals.

In regard to consultees and objections, Mr Evans advised that 28 letters of objection had been received, including an objection from Dyce and Stoneywood Community Council.

Mr Evans made reference to the relevant planning considerations as follows:-

Aberdeen Local Development Plan 2017

H1: Proposals for new development will be acceptable in principle if they:

- 1 do not constitute over development;
- 2 do not have an unacceptable impact on the character and amenity of the surrounding area;
- 3 do 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
- 4 comply with Supplementary Guidance. (Trees and Woodland)

B1: Business and Industrial Land

- Expansion of existing uses within B1 locations will be permitted in principle.
- Where business and industrial areas are located beside residential areas, new planning permissions will be restricted to Class 4 (business).
- Buffer zones, which are appropriately sized and landscaped, may be required to separate these uses and safeguard residential amenity.

NE1: Green Space Network

- ACC will 'protect, promote and enhance the wildlife, access... landscape value of the Green Space Network'.
- Proposals that are likely to destroy or erode the character and/or function of the GSN will not be permitted

NE5: Trees and Woodlands

- Permission will not be granted 'to redevelop parks, playing fields... woods, allotments or other areas of urban green space (including smaller spaces not identified on the Proposals Map)'.
- Exceptions if an equivalent area is laid out and made available in the local area as urban green space.
- Additional criteria include proviso that 'there is no loss of established or mature trees'.

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Supplementary Guidance

- Trees and Woodlands – generally relates to the content of supporting information. In this instance, Mr Evans advised that it was noted that the survey and arboricultural impact assessment carried out in relation to the earlier application in 2017 had been resubmitted with no update to reflect the reduced extent of the yard area.

In the Notice of Review and supporting statement, the appellant had highlighted the following:-

- That the proposal allowed business to grow, to the benefit of the City's economy;
- The inaccuracy in the reason for refusal, namely that 77 trees were to be removed, not 93 as stated;
- The poor condition of some existing trees and the net increase in tree numbers through compensatory planting;
- The retention of an 8 metre wide buffer to the south edge of the yard area;
- That the appellant disagreed that precedent would be set and contended that policy NE3 (Urban Green Space) did not apply, and that green space network would not be eroded; and
- That Scottish Government policy on the Control of Woodland Removal supported the proposal, as it allowed for woodland removal where it would *contribute significantly to enhancing sustainable economic growth*.

The Local Review Body then asked questions of Mr Evans in regard to the application.

The Local Review Body thereupon agreed unanimously that the review under consideration should be determined without further procedure, as Members felt they had enough information before them to determine the application.

Mr Evans 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.

During deliberation, Members noted the following:-

- That the area designated as residential would have a change of use if the application was approved;
- That the proposal would be removing urban greenspace and that the proposed replanting would not compensate for the loss of trees;
- That while Members were keen to encourage economic growth, this needed to be weighed up against the loss of amenity to the existing residential area; and
- That they considered that the policies had been applied appropriately and that there could also be a risk to the retained trees on the site.

Following discussion, Members agreed unanimously to uphold the decision of the appointed officer to refuse the application.

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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 the decision were as follows:-

The loss of the woodland and creation of the yard would significantly reduce the amenity of existing and future residents in both the immediate surroundings and wider Stoneywood area, contrary to Policy H1 (Residential Areas).

The removal of the woodland would destroy part of the city's identified Green Space Network (GSN) and erode the overall network in the wider sense. It may also set a principle precedent and encourage other businesses within Stoneywood Industrial Estate to seek the removal of other parts of the woodland belt, exacerbating this negative impact on the GSN. The proposal is therefore contrary to Policy NE1 (Green Space Network), NE3 (Urban Green Space) and Policy NE5 (Trees and Woodland). Neither is the proposal supported by the Scottish Government's Policy on Control of Woodland Removal, as no overriding wider public benefit has been demonstrated. Compensatory planting has been proposed but it is considered that this does not adequately compensate for the reduction in area of GSN and associated removal of 77 mature trees.

Whilst the expansion of existing businesses is supported by Policy B1 (Business and Industrial) within such allocated areas, the overall proposal does not see the business activity expanded into such an identified area, but is also clearly contrary to the aim of retaining open space and therefore Policy B1 is not considered to support the proposals.

16 DON TERRACE (180912) - FORMATION OF DRIVEWAY TO FRONT

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 to the front of 16 Don Terrace, Aberdeen, Planning Reference 180912.

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 13 August 2018; (3) links

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to the plans showing the proposal and planning notices referred to in the delegated report; (4) a letter of representation; and (5) the application and Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application.

At this juncture, Mr Evans advised Members that the applicant had raised the matter of a letter from his doctor in the Notice of Review, relating to a health condition, and that this information had not been available to the appointed officer at the time of the original decision being made on the application. Members were reminded that the LRB must only consider information which was before the appointed officer at the time the determination being reviewed was made unless it could be demonstrated: -

- that the new material could not have been raised before that time; or
- that it not being raised before that time was a consequence of exceptional circumstances.

The Chairperson stated that the LRB could either decide to not consider the additional information or to seek an additional written submission from the applicant as to why the information had not been raised with the appointed officer.

Members unanimously agreed to request that the applicant provide written information in respect of why the additional information could not have been raised at the time of considering the application being reviewed.

It was therefore agreed to defer consideration of the application until such time as the above information had been received and circulated to interested parties for comment.

LAND AT REAR OF 44/46 BEDFORD ROAD (P181541) - ERECTION OF 6 RESIDENTIAL FLATS WITH ASSOCIATED LANDSCAPING

3. The LRB then considered a third 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 6 residential flats with associated landscaping at the land to the rear of 44/46 Bedford Road, Aberdeen, Planning Reference 181541.

The Chairperson advised that the LRB would be addressed by Ms Lucy Greene who would be acting as the Planning Adviser to the Body in the case under consideration.

The Chairperson again highlighted that although the Planning Adviser was employed by the planning authority, she 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.

In relation to the application, the LRB had before it (1) a delegated report by Mr Nicholas Lawrence, Senior Planner; (2) the decision notice dated 1 November 2018; (3)

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links to the plans showing the proposal and planning notices referred to in the delegated report; (4) two letters of representation and a submission from the Roads Development Management Team; and (5) the application and Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application.

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

Ms Greene explained that the application site comprised the garden / amenity areas to numbers 44/46 Bedford Road which extended to approximately 332 square metres in area. The site was bounded to the west by 44/46 Bedford Road, a two and a half storey end of terrace traditional granite building that formerly had a newsagent on the ground floor; the north by a brick boundary wall of approximately 1.2 metres in height which abutted Bedford Place; the east by numbers 55 and 57 Bedford Place; and the south by gardens to properties on Bedford Road and Erskine Street. The area was characterised by residential development where no one design form or period of construction was dominant, although granite and slate roofed buildings were prominent. The site fell within a residential area to which Policy H1 was attached.

In respect of planning history, Ms Greene highlighted that planning permission had been granted at the Local Review Body earlier in 2018 for the erection of four residential flats and associated landscaping, subject to a Section 75 agreement.

Ms Greene advised that permission was sought for the erection of six flats over three storeys, located on the southern side of Bedford Place, close to its junction with Bedford Road. The site was currently overgrown garden ground associated with 44/46 Bedford Road. Pedestrian access was taken off Bedford Road and via a gate off Bedford Road to allow access to the rear of the building, six cycle spaces and bin collection. A garden area was provided immediately to the west elevation of the proposed building.

Ms Greene 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 proposed development by reason of the quantum of development, design, form, scale, mass and proximity to neighbouring properties and their amenity areas has not had due regard to delivering a high quality scheme with respect to its context and the proposed development will therefore harm the character and appearance of the area contrary to policies D1 and H1 of the Aberdeen Local Development Plan 2017, together with national policy guidance within Scottish Planning Policy and Planning Advice Note 67.
2. The proposed development by reason of the quantum of development, design, form, scale, mass and proximity to the site boundary will be oppressive and harmful to the private amenity afforded to neighbouring dwellings, which in turn

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represents an overdevelopment of the buildings footprint contrary to policies D1 and H1 of the Aberdeen Local Development Plan 2017, together with national policy guidance within Scottish Planning Policy and Planning Advice Note 67.

3. The no car approach adopted by the applicant will have an adverse impact on the amenity of neighbouring sites through increasing on-street parking pressures and the proposal is therefore in conflict with policies T2 and T3, together with the associated Supplementary Guidance (Transport and Accessibility) to the Aberdeen Local Development Plan 2017.

In regard to consultees and objections, Ms Greene advised that 2 letters of representation had been received, and that the Roads Development Management Team had recommended refusal of the application as the on-street parking was finite and more flats would lead to more parking pressures in an already congested area.

In the Notice of Review supporting statement, the appellant had noted:-

- That they considered that the relevant planning history had not been recorded accurately, referring to the application P141644 and the decision of a willingness to approve, subject to agreement of a Section 75 which had been well-advanced when it had been decided not to conclude the S75 agreement when it was known that it was possible to achieve approval for mainstream flats on the site;
- It was their strong contention that the design of the application did not have an unacceptable impact on adjoining uses, as the windows overlooked the extreme end of what was a 30 metre long garden;
- That the consideration of overdevelopment was a matter of opinion as there was no test by which it could be determined, and with the approval by the LRB of the previous application 180555, this established a two and a half storey building to the street frontage, and given the current application and footprint of the proposals was identical, it could not be considered that there would be an impact on the character and appearance of the area;
- That the proposed application would satisfy many of the statements in the Planning Advice Note 67 which had been referenced in the reasons for refusal; and
- That it was a judgement call as to whether two additional flats would result in an adverse impact on the surrounding streets, as the appellant noted that the Roads Development Management Team had no objection to the previous application for four flats, and further noted that it was very likely that the owners or occupiers of the flats would be students or persons associated with the University of Aberdeen. The appellant did however note that the flats could be occupied by others, but added that having a car free development would meet the aspirations of the Supplementary Guidance – Transport and Accessibility, as anyone owning or residing in one of the flats would be clear that there was no on-site parking and the site was well placed for access to public transport and amenities.

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The Chairperson and Councillors Cameron 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.

Ms Greene outlined the relevant policy considerations, making particular reference to the following in the Aberdeen Local Development Plan 2017:-

- H1 – Residential Areas: Householder Development
- D1 – Quality Placemaking by Design;
- T2 – Managing the Transport Impact of Development
- T3 – Sustainable and Active Travel.

In terms of material considerations, Ms Greene 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.

The Local Review Body then asked questions of Ms Greene in regard to the application.

Following discussion, Members agreed by a majority of two to one that the proposal was acceptable and therefore the Local Review Body's decision was to overturn the decision of the appointed officer and approve the application, subject to the conclusion of a Section 75 agreement in respect of Car Club contributions.

In coming to a decision, Councillor Donnelly stated that the site had previously been given permission for a development of the same size of footprint, and that he did not feel that two additional flats would have an impact. The Chairperson stated that she did not consider the size of the building and the gable end to have an impact on residential amenity, and the new style and placement of windows proposed would correlate to windows in nearby properties. She noted that the applicant had made significant changes to correlate with the existing building fronts and had gone some way in terms of Policy D1 to try to accord with existing designs, therefore she did not feel that the application was at odds with Policy H1. In terms of parking and Policy T3, the Chairperson noted that the site was well-connected to cycle and bus routes, however suggested that the application be approved subject to the conclusion of a Section 75 agreement in respect of Car Club contributions.

Councillor Cameron supported the appointed officer's decision to refuse the application, as he considered that the proposed development would have an adverse impact on the character and appearance of the area, due to the mass of the proposal, particularly in terms of the gable end of the property; that the number of windows to the rear of the property would have an adverse impact on the amenity of neighbouring dwellings; and that with six flats, there was the potential for between 8 and 12 parking passes to be required in the controlled parking area, which would be an unacceptable pressure in terms of on-street parking.

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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 the decision were as follows:-

The proposal would not harm the character and appearance of the area and therefore was not contrary to policies D1 and H1 of the Aberdeen Local Development Plan 2017, nor the national policy guidance within Scottish Planning Policy and Planning Advice Note 67; that the proposed development would not be oppressive and harmful to the private amenity afforded to neighbouring dwellings and did not represent an overdevelopment of the building's footprint, and was therefore not contrary to policies D1 and H1; and that the proposal was not in conflict with policies T2 and T3, nor the associated Supplementary Guidance (Transport and Accessibility).

- **COUNCILLOR MARIE BOULTON, Chairperson**

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