

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 16 January 2019. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Duncan and Henrickson.

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

6 CRIAGHAAR GABLES ABERDEEN - 181329

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 change of use from amenity ground to form a driveway at 6 Craighaar Gables, Aberdeen, 181329/DPP.

Councillor Boulton as Chairperson gave a brief outline of the business to be undertaken. She indicated that the LRB would be addressed by the Assistant Clerk, Mrs Lynsey McBain as regards the procedure to be followed and also, thereafter, by Mr 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 Mr Roy Brown, Planning Technician; (2) the decision notice dated 28 September 2018; (3) links to the plans showing the proposal and planning notices referred to in the delegated report; and (4) the original application form and Notice of Review with accompanying statement 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 62sqm area of amenity open space to the east of 6 Craighaar Gables and west of Stoneywood Road, which was located in a residential area. The application site forms part of the wider soft-landscaped communal amenity open space in and around the residential properties in Craighaar Gables.

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In regard to the description of proposal, Mr Evans advised that the change of use of the site from amenity open space to residential curtilage and the hard surfacing of the area to form a double driveway which would facilitate two parked cars and would be accessed via Stoneywood Road to the east.

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

- Loss of communal open space which contributes to the character of the area;
- Resultant conflict with policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) and the associated 'Householder Development Guide' and Transport and Accessibility SG documents;
- Potential for increased rate of surface water run-off due to the non-porous nature of the hard surface, potentially increasing flood risk outwith the site, contrary to objectives of policy NE6 (Flooding, Drainage & Water Quality); and
- There was a risk that approval would set a precedent for the incremental erosion of this wider open space, to the detriment of the character and amenity of the surrounding area.

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

- Contends that the application site is flanked by two private gardens which were purchased from Aberdeen City Council by the owners of numbers 5 and 9 Craighaar Gables in 1999 and 2001 respectively;
- Explains that flood risk/drainage was not raised with client prior to determination; and have added a new surface water filter trench to act as SUDS; and
- As regards to precedent, the applicant highlights that the council's sale of neighbouring land in fact set the precedent.

Mr Evans advised that roads had no objection to the application provided that standard specifications are met and the estates team confirmed that the land in question is subject of an application to purchase, with sale conditional upon the applicant obtaining change of use to Garden Ground.

Mr Evans indicated that the applicant had expressed the view that no further procedure was required and the application could be determined without further procedure.

The Chairperson and Councillors Duncan and Henrickson all indicated in turn that they each had enough information before them and therefore agreed that a site visit nor an additional hearing 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 - proposals for new development will be acceptable in principle if they:
 - do not constitute over development;

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- do not have an unacceptable impact on the character and amenity of the surrounding area;
- 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
- complies with Supplementary Guidance.

NE3 – Urban Green Space

Permission will not be granted to redevelop parks, playing fields etc or other areas of urban green space (including smaller spaces not identified on the proposals map)

Mr Evans noted that this area of green space, which is understood to form part of a wider space that historically would have been communal, however the appointed officer's assessment has treated it as constituting an area of Urban Green Space, similar to parks, public gardens, playing fields, sports pitches, woods and allotments. Mr Evans advise that Members should consider for themselves whether this area warrants being considered under policy NE3 in that context.

Supplementary Guidance

- Householder Development Guide
 - Section 3.1.11 deals specifically with changes of use from amenity ground to private garden, setting out the following criteria:
 - Should not adversely affect spaces that make worthwhile contribution to character and amenity of area;
 - Should fragment or erode larger areas of open space/landscaping;
 - Should not worsen or create deficiency in recreational open space; and
 - Should not result in loss of visual amenity – including loss of trees
- Transport and Accessibility
 - Permission will not be granted for driveway across an amenity area unless it would produce a demonstrable improvement in road safety;
 - Should be internally drained, no water discharging to street; and
 - Should be min 5m wide (for double) and 5m long.

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

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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.

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 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:-

(1) The proposed change of use to residential curtilage and the formation of a hard surfaced double driveway would result in the loss of an area of valuable communal amenity open space which makes a worthwhile contribution to the character and amenity of the area by providing a soft landscaped setting to Stonewood Road and in terms of providing usable communal open space to the public, particularly the residents of Craighaar Gables. The proposal would in itself fragment the wider area of open space around Craighaar Gables and would result in an irregular domestic boundary by resulting in an isolated domestic curtilage within the wider open space. The proposal would thus have an adverse impact on the character and amenity of the surrounding area. The proposal would conflict with the principles of Scottish Planning Policy, Policies H1 - Residential Areas and D1 - Quality Placemaking by Design of the Aberdeen Local Development Plan 2017; the Supplementary Guidance: 'The Householder Development Guide' and 'Transport and Accessibility'.

(2) If planning permission was granted it would be likely to set a precedent for the incremental erosion of the wider amenity open space, thereby resulting in further detriment to the character and amenity of the surrounding area and increased flood risk to nearby land.

DENHEAD SKENE ROAD ABERDEEN - 181539

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 demolition of a steading and erection of 2 storey dwelling house with terrace, at Denhead, Skene Road Aberdeen, 181539.

Councillor Boulton as Chairperson gave a brief outline of the business to be undertaken and advised that Mr Gavin Evans would be acting as the Planning Adviser to the Body in the case under consideration.

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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 again 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 Mr Gavin Clark, Senior Planner; (2) the decision notice dated 1 November 2018; (3) links to the plans showing the proposal and planning notices referred to in the delegated report; and (4) the original application form and Notice of Review with accompanying statement 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 related to an area of ground in the rear garden of the house known as Denhead at Kingswells. The site lay approximately 1m below the level of the access road and sloped down slightly from west to east. The west building line abuts a grass verge alongside the public road. Beyond the north boundary sat a 1 ½ storey dwelling that had an east-west aspect with a driveway lying between the application site and the southern gable end of the neighbouring dwelling.

In regard to the description of proposal, Mr Evans advised that planning permission was sought for the demolition of the existing steading building and the erection of a 1 ½ storey detached dwellinghouse which would be located out with the current footprint of the steading and would be 6.7m back from the public road. The dwellinghouse would include timber windows, a slate roof and blockwork walls rendered in off-white dry dash render. The porch would also be finished in stone reclaimed from the steading.

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

- Approval would undermine the principles of controlling development in Green Belt areas and lead to the erosion of such areas, adversely affecting landscape setting of the City;
- It would be contrary to policy NE2 (Green Belt) of the Aberdeen Local Development Plan and Scottish Planning Policy, as they relate to development in green belt areas;
- The proposal failed to comply with policy D5 (Our Granite Heritage) as it would result in the demolition of a traditional granite steading building without adequate justification and with insufficient information relating to the re-use of doughtings within the proposed development;

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- The proposed house was not designed with due consideration for its context in Green Belt location, was contrary to policies D1 (Quality Placemaking by Design) and NE2 (Green Belt) and the associated guidance on the Sub-division and Redevelopment of Residential Curtilages;
- Notes that the application was not accompanied by a bat survey, and therefore the planning authority was not able to adequately assess the potential for impact on bats as a European Protected Species.

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

- Worked to implement earlier consent which commenced in March 2018 but found that the building was in worse condition than had been understood. This rendered the conversion impractical and financially unviable;
- Stated that the steading created issues with visibility at the access to the site, which would be increased as a result of future development;
- Contended that future development of allocated sites would move the urban edge of the city outward to incorporate the properties off Skene Road;
- Highlighted difficulties faced in converting steading for use as a dwelling;
- Contended that the site was in effect a 'gap site', sandwiched between two existing dwellings and with future development allocated to the east. As a result, the applicant contended that the proposal would not result in coalescence of settlements or sprawling development;
- Repeated reference to conversion being unviable;
- Intimated that no opportunity was given to increase use of downtakings to better comply with D5 (Our Granite Heritage);
- Indicated a willingness to undertake a bat survey and requested that this was dealt with by condition; and
- The steading was largely screened and does not form part of any important views. Demolition would not have a significant effect on the landscape character.

Mr Evans advised that there were no objections from statutory consultees however roads advised that the applicant should provide off-street car parking and that the new driveway was constructed to a specified visibility splay, with appropriate materials. Mr Evans also noted that two letters of representation had been received, one in support and one objecting.

Mr Evans indicated that the applicant had expressed the view that no further procedure was required and the application could be determined without further procedure.

The Chairperson and Councillors Duncan and Henrickson all indicated in turn that they each had enough information before them and therefore agreed that a site visit nor an additional hearing 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, namely D1: Quality Placemaking by

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Design; Policy D5: Our Granite Heritage; Policy T2: Managing the Transport Impact of Development; Policy T3: Sustainable and Active Travel; Policy NE2: Green Belt; Policy NE6: Flooding, Drainage & Water Quality; Policy NE8: Natural Heritage; Policy R6: Waste Management Requirements for New Developments; Policy R7: Low & Zero Carbon Buildings & Water Efficiency and Policy CI1: Digital Infrastructure.

In regards to Supplementary Guidance, the following guidance were relevant:-

1. Transport and Accessibility
2. Natural Heritage
3. Flooding, Drainage and Water Quality; and
4. Resources for New Development

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 commentary on Green Belts would be a material consideration.

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.

Members agreed by majority to overturn the original decision and therefore grant planning permission conditionally. Councillors Boulton and Duncan voted to approve the application and Councillor Henrickson voted to uphold the decision of the appointed officer.

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:-

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The LRB noted that the site, whilst zoned as Green Belt, is nevertheless immediately adjacent to two opportunity sites allocated in the Aberdeen Local Development Plan for residential development, and that the development of these sites in the long-term would move the urban edge of the city outwards to this point. The site was considered to be well screened from the road and generally not of great prominence in the landscape. Members considered that the site could be characterised as a 'brownfield' site, given the presence of an existing steading building. The presence of existing dwellings to either side was felt to give the impression of a small settlement at present. It was considered that the proposed new dwelling relates well to its immediate neighbours and would be consistent with the local context, which is characterised by small clusters of houses on either side of Skene Road. The LRB did express the view that the proposal failed to make adequate use of the materials from the existing steading building in its construction, and therefore requested that a condition be attached in order to ensure that a greater proportion of this material could be re-used in the design of the new dwelling.

The LRB noted that a previous bat survey in support of an earlier application for conversion of the steading building found no evidence of bats using the building, and was satisfied that the overarching legal duties and licensing regime operated by Scottish Natural Heritage in relation to the protection of protected species would be sufficient to ensure no adverse impact on bats as a protected species.

Ultimately, the LRB recognised that the proposal for a new dwelling does not comply with the Development Plan as it relates to development within Green Belt areas, but considered that the aforementioned factors weighed in favour of approval in this instance.

CONDITIONS

Materials/finishes and re-use of dowltakings

That no development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed - in the interests of visual amenity.

Any such scheme shall include a statement detailing the extent of dowltakings from the existing steading building, the condition of any such dowltakings, and shall set out proposals to maximise the meaningful re-use of dowltakings within the proposed development – with priority given to utilizing salvaged stone in the principal elevation of the new dwelling – in order to ensure compliance with policy D5 (Our Granite Heritage) of the ALDP.

Driveway specifications

That the driveway serving the dwelling hereby approved shall not be surfaced with loose material over the first 2m adjacent to the road – in order to prevent any such loose materials being shed onto the public road.

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Surface Water Drainage

That no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems has been submitted to and approved in writing by the Planning Authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme - in order to safeguard water qualities in adjacent watercourses and to ensure that the development can be adequately drained.

Low and Zero Carbon Buildings policy compliance

that the building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full - to ensure that this development complies with requirements for reductions in carbon emissions specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.

Off-street car parking

that the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, drained, and laid-out in accordance with drawing No. 645/01 of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority - in the interests of public safety and the free flow of traffic.

Boundary enclosures

That no development pursuant to this planning permission shall take place unless there has been submitted to and approved in writing by the Planning Authority a detailed scheme of site and plot boundary enclosures for the entire development hereby granted planning permission. For the avoidance of doubt, this scheme shall prioritize the re-use of downtakings salvaged from the demolition of the existing steading building which cannot otherwise be incorporated into the design of the dwellinghouse. The approved dwelling shall not be occupied unless the said scheme has been implemented in its entirety - in order to preserve the amenity of the neighbourhood.

- **COUNCILLOR MARIE BOULTON, Chairperson.**

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