

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 11 September 2019. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Macdonald and Wheeler.

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

7 BON ACCORD SQUARE ABERDEEN - 181777

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 replacement windows to the front and rear at 7 Bon Accord Square Aberdeen, Planning Reference 181777.

Councillor Boulton as Chair, gave a brief outline of the business to be undertaken, advising that the LRB would be addressed by the Assistant Clerk, Mrs Lynsey McBain 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 cases 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 Mrs McBain, Assistant Clerk in regard 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 Alex Ferguson, Planner; (2) the application dated 11 October 2018; (3) the decision notice dated 4 June 2019; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; and (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement with further information relating to the application.

The LRB was then addressed by Mr Evans who advised that the review had been submitted with all necessary information within the time limit of three months following the decision of the appointed officer.

Mr Evans then described the site and advised that it was a mid-terraced property set over four levels, which included attic and basement, on the southern side of Bon Accord Square, which formed part of a traditional granite-built category B listed terrace. The building was currently vacant but was last used as an office. The original building incorporated traditional single-glazed timber sliding sash and case windows to the front

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and rear, of varying fenestration patterns and the site lay within the Bon Accord/Crown Street Conservation Area.

In regard to the proposal, Mr Evans explained that planning permission had been sought for the replacement windows to the front and rear. The application proposed the replacement of 11 windows in the original part of the building, with no change to the more modern rear extension. The existing windows were timber-framed, single-glazed sash and case windows. It is proposed to replace these with new timber sash-and-case windows of matching proportions, but with the addition of slim-profile double glazing in place of the existing single-glazing. One rear window (to the rear) would be replaced with one of a different glazing pattern (6-over-6 instead of 2-over-2).

Mr Evans then outlined the applicant's proposal making reference to the history of the site and outlined the appointed Officer's reasons for refusal as follows:-

- Identifies no conflict with NC1 (City Centre) or H2 (Mixed Use Areas) policies;
- The proposal would adversely affect historic architectural integrity and character of the Listed Building and, to a lesser degree, the character of the Conservation Area;
- It is considered that the windows do not appear to be beyond practicable repair, with no evidence to the contrary. Window condition survey had not been provided; and replacement had therefore not been justified;
- Fails to comply with:
 - Scottish Planning Policy
 - Policy D4 of the ALDP and associated Supplementary Guidance;
 - Historic Environment Scotland 'Windows' and 'Asset Management' guidance from Managing Change series; and
- Notes that applicants' justification for removal was based on thermal efficiency/sustainability, but alternatives to replacing the existing windows do not appear to have been fully explored.

In relation to the appellants case, Mr Evans highlighted the following:-

- They included photographs of existing windows, noting poor maintenance in some places and evidence of sills displaying rot;
- Concluded that the windows had deteriorated as a result of a lack of ongoing maintenance;
- Highlighted that the applicant intended to replace the existing windows with sash and case windows detailed faithfully to match originals;
- The Conservation Area Character Appraisal encourages continued investment by owners and noted that Appraisal Framework suggested window replacement should be considered where a replacement windows was of traditional style, proportions and materials;
- Noted that the applicant wished to introduce double glazing to improve thermal efficiency of the building and reduce carbon emissions/energy costs;
- Discounted the use of secondary glazing due to the potential impact on the internal features like window shutters and architraves; and

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- Highlighted the benefit in terms of securing the building's future use/occupation and value in contributing to the success of the city centre.

Mr Evans advised that there were no consultees responses and no letters of representation. Mr Evans also indicated that the applicant had indicated that no further procedure was required before determination of the application.

The Chairperson and Councillors Macdonald and Wheeler advised in turn that they each had enough information before them and agreed that no further procedure was required and that the review under consideration should be determined without further procedure.

Mr Evans outlined in detail, the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017, namely H2 – Mixed Use Areas, D1 – Quality Placemaking by Design and D4 – Historic Environment:

In regards to Supplementary Guidance, Windows and Doors Supplementary Guidance was relevant and the following was important:-

- It sets out guidance for window replacement;
- The repair and retain of historic windows always promoted over replacement;
- Replacement of original/historic windows would only be supported where it can be satisfactorily demonstrated that they have deteriorated beyond practicable economic repair;
- Slim profile double glazing in existing frames could be supported in principle on Listed Buildings, however slim profile double glazed windows must have a maximum width of 14mm from outer frame to outer frame and new windows should match the originals as closely as possible;
- Installation of slim-profile units should not alter the original astragal arrangement;
- To ensure architectural integrity, replacement windows should replicate the historic design exactly in terms of materials, proportions, profiles and dimensions of frames and glazing bars/astragals and method of opening and details; and
- On listed buildings the introduction of PVCu windows as a replacement material was not acceptable.

In regard to material considerations, Mr Evans explained that in determining the appeal, members should also 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. In addition to the relevant policies from the development plan, the following would be material considerations:

- Scottish Planning Policy and the need to give special regard to the importance of preserving and enhancing the building and any features of special interest.
- Historic Environment Policy for Scotland – sets out 6 high-level policies for managing the historic environment.
- HES Managing Change guidance on 'Windows'

Members of the Local Review Body then asked various questions of Mr Evans.

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The Chairperson and Councillors Macdonald and Wheeler advised in turn and unanimously agreed to uphold the original 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 considerations 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 proposals would not affect the delivery of the vision for the city centre, in accordance with Policy NC1 (City Centre Development - Regional Centre) of the Aberdeen Local Development Plan (ALDP), nor the amenity or viability of any neighbouring uses, in accordance with Policy H2 (Mixed Use Areas) of the ALDP.

The proposal to replace the existing windows would adversely affect the historic architectural integrity and character of the listed building and by extension, to a lesser

degree, the character of the conservation area. The existing windows (with the exception of the two at roof-level) are historic/ possibly original and in the absence of a detailed window condition survey, visual inspections by officers indicate they do not appear to be beyond practicable repair. Indeed, the applicant's updated supporting statement includes a quotation from a reputable window repair company which only recommends the wholesale replacement of one window. Thus, it is considered that: the vast majority of the windows are not 'beyond repair'; and the principle of replacing them has therefore not been suitably justified, thus is not accepted. The proposals therefore fail to comply with the principles of Scottish Planning Policy (SPP), Historic Environment Policy for Scotland (HEPS), Policy D4 (Historic Environment) of the Aberdeen Local Development Plan, the Council's supplementary guidance on The Repair and Replacement of Windows & Doors and Historic Environment Scotland's Managing Change in the Historic Environment: 'Windows' and 'Asset Management' guidance.

Whilst the applicant has largely based their justification for replacing the existing windows on thermal efficiency/ sustainability grounds, issues which are not without merit, they have not explored in any detail, alternative, more sympathetic solutions to addressing these issues, which would allow the existing windows to be retained, as is required by HEPS Policy HEP4.

7 FAIRVIEW WALK DANESTONE - 190776

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

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Delegation to refuse the application for the change of use from amenity open space to domestic garden ground, erection of a wall and re-positioning of the rear boundary fence at 7 Fairview Walk Danestone, Planning Reference 190776/DPP.

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 Roy Brown, Planning Trainee; (2) the application dated 10 May 2019; (3) the decision notice dated 2 August 2019 (4) links to the plans showing the proposal and planning policies referred to in the delegated report and (5) the Notice of Review submitted by the agent along with an accompanying statement.

The Local Review Body then heard from Mr Evans, who explained that the review had been submitted with all necessary information within the time limit of three months following the decision of the appointed officer.

Mr Evans then described the application and advised that it comprised a semi-detached bungalow, with its front and rear curtilage and a 23sqm area of open space to its southwest, in a residential area in Danestone. The site sloped slightly from north to south. The dwelling had a northeast elevation that fronts Fairview Walk and was bounded with 9 Fairview Walk to its northwest and 5 Fairview Walk to the southeast.

In regards to the proposal, Mr Evans explained that planning permission was sought for the change of use of an area of 23sqm of open space to domestic garden ground, the raising of the ground level of the area by 0.3m to the existing garden level, the erection of a 0.3m high fyfestone finished retaining wall and a 1.8m high treated timber boundary fence around the space so that it would form part of the garden ground of 7 Fairview Walk. Mr Evans noted that ownership of the site was not relevant to the assessment of the planning application.

Mr Evans outlined the appointed Officer's reasons for refusal as follows:-

- It resulted in a loss of a valuable area of green space;
- The existing green space provided soft landscaped and open setting to the north of Fairview Street and the public path linking it to Fairview Walk;
- It conflicted with Householder Development Guide Supplementary Guidance as it would fragment a wider area of open space, would result in an irregular boundary, and would result in the narrowing of the footpath corridor, making it less inviting;
- There was the potential for setting a precedent and incremental erosion of amenity space if repeated elsewhere; and
- It conflict with Policies NPF3, Policies H1, NE3, and D1 of the Aberdeen Local Development Plan and Scottish Planning Policy.

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In relation to the appellants case, Mr Evans highlighted the following:-

- Argued that this area serves little purpose and its amenity value is not significant, in contrast to the much larger area of green space beyond;
- Contended that the proposal would improve the appearance of the north side of the path, with minimal disturbance to any limited useability the area may presently possess;
- Considered that the enclosure of this small area would not fragment a larger open space, but rather would continue a smooth boundary line to the path;
- Highlighted that it was common in the surrounding area for fences to be constructed hard up to footpaths;
- Noted that the footpath would still remain very open in comparison to many others in the area, due to the remaining unaffected green space to the western side of the path;
- Highlighted that this path also differs from most others in the area in that it is curved away from a property boundary;
- Highlighted a local example of a much larger area of encroachment onto open space; and
- Referred to photographs appended to supporting statement

In relation to the consultee response, Mr Evans advised that there were no objections from consultees and no letters of representation from individuals.

Mr Evans then advised that the applicant had expressed the view that further procedure should take place, by way of a site visit.

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

Mr Evans outlined in detail, the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017, namely policies D1 (Quality Placemaking by Design), H1 (Residential Areas) and NE3 (Urban Green Space) and the Householder Development Guide, Supplementary Guidance.

The Chairperson and Councillors Macdonald and Wheeler advised in turn and agreed by majority 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 conditionally. Councillor Macdonald voted to refuse the application and Councillors Boulton and Wheeler voted to approve 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

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(Scotland) Act 1997 (as amended) and other material considerations 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:-

Members of the Local Review Body (LRB) agreed by majority to overturn the decision and approve the application with a condition in regard to the finishing of the fence. The Local Review Body considered that the proposal would not harm the character and amenity of the area, nor would it result in a loss of valuable open space as safeguarded by policy NE3, and further felt that the incorporation of this space into a domestic curtilage would not cause the fragmentation of the wider area of open space. It was concluded that the proposal would accord with the relevant policies of the Aberdeen Local Development Plan, including policies D1 (Quality Placemaking by Design), H1 (Residential Areas) and the associated Householder Development Guide Supplementary Guidance. The LRB felt that no precedent would be set for similar proposals and the proposal would not be detrimental to the continued use of the adjacent footpath.

CONDITION

No development pursuant to this grant of planning permission shall be undertaken unless full details of any stain/colouring of the approved fence have first been submitted to the planning authority and subsequently approved in writing. Thereafter, all works shall be carried out in full accordance with the details so agreed.

Reason: In order to ensure that the appearance of the approved fence is appropriate to its context.

Councillor Marie Boulton, Chairperson

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