

# Public Document Pack



To: Councillor Boulton, Chairperson; and Councillors Bell and Duncan.

Town House,  
ABERDEEN 02 December 2019

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in **Committee Room 4 - Town House** on **TUESDAY, 10 DECEMBER 2019 at 10.00 am.**

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

### **BUSINESS**

1.1 Procedure Notice (Pages 3 - 4)

**COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING**

**MEMBERS PLEASE NOTE THAT THE FOLLOWING LINK WILL TAKE YOU TO THE LOCAL DEVELOPMENT PLAN.**

[Local Development Plan](#)

**TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

**PLANNING ADVISER - GAVIN EVANS**

2.1 Erection of 2 storey extension to rear and timber fence and gate to side - 57 Louisville Avenue Aberdeen - 191253

2.2 Delegated Report, Original Application Form, Decision Notice and Letters of Representation (Pages 5 - 22)

Members, please note that all plans and supporting documents relevant to the review can be viewed online at the following link by entering the application reference number:-

191253

<https://publicaccess.aberdeency.gov.uk/online-applications/search.do?action=simple&searchType=Application>

2.3 Planning Policies Referred to in Documents Submitted (Pages 23 - 24)

2.4 Notice of Review with Supporting Information Submitted by Applicant / Agent (Pages 25 - 42)

Members, please note that all plans and supporting documents relevant to the review can be viewed online at the following link by entering the application reference number:-

Ref Number 191253

<https://publicaccess.aberdeency.gov.uk/online-applications/search.do?action=simple&searchType=Application>

2.5 Determination - Reasons for Decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

2.6 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

Website Address: [www.aberdeency.gov.uk](http://www.aberdeency.gov.uk)

Should you require any further information about this agenda, please contact Lynsey McBain on [lymcbain@aberdeency.gov.uk](mailto:lymcbain@aberdeency.gov.uk) / tel 01224 522123

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.  
Any representations:
  - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
  - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions**.
13. The LRB will give clear reasons for its decision. The Committee clerk will confirm these reasons with the LRB, at the end of each case, in recognition that these will require to be intimated and publicised in full accordance with the regulations.



## Strategic Place Planning

Report of Handling

<b>Site Address:</b>	57 Louisville Avenue, Aberdeen, AB15 4TT,
<b>Application Description:</b>	Erection of 2 storey extension to rear and timber fence and gate to side
<b>Application Ref:</b>	191253/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	12 August 2019
<b>Applicant:</b>	Mrs Lynne Hendry
<b>Ward:</b>	Hazlehead/Ashley/Queens Cross
<b>Community Council:</b>	Ashley And Broomhill
<b>Case Officer:</b>	Roy Brown

### **RECOMMENDATION**

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Refuse

### **APPLICATION BACKGROUND**

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#### **Site Description**

The site comprises an early-mid twentieth century 1½ storey semi-detached granite dwelling in a residential area, and its associated front and rear curtilage. The dwelling has a northeast facing principal elevation that fronts Louisville Avenue and adjoins 55 Louisville Avenue to the southeast. The rear curtilage of 59 and 61 Louisville Avenue are located to the northwest. The dwelling has a gable roof and a minor rear annexe and porch and garage in the rear curtilage.

#### **Relevant Planning History**

Planning permission (Ref: 180601/DPP) was granted on the 31<sup>st</sup> July 2018 for the erection of a pitched roofed extension over two levels. The planning permission has not been implemented.

### **APPLICATION DESCRIPTION**

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#### **Description of Proposal**

Planning permission is sought for the erection of a flat roofed two storey extension to the rear of the property. The extension would cover an area of c.28sqm and would project c.4m to the rear of the dwelling. The extension would comprise two elements; a ground floor timber-clad finished element with a flat roof that would be c.3.4m in height and a zinc-clad finished upper storey element that would have a maximum height of c.6.3m. The upper storey element would be stepped in c.0.4m from the northwest side, c.1.3m from the (southwest) rear and c.0.9m from the southeast (mutual boundary).

A c.2.1m long c.2.1m high timber fence and gate is also proposed to the side of the property, to separate the front and rear gardens.

The proposal includes other minor alterations on the side elevation of the dwelling. These fall within the provisions of Class 2B of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, as such they do not require planning permission and have therefore not been included in this application.

### **Supporting Documents**

All drawings and supporting documents listed below can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PW4BU3BZIK800>

#### *Sunlight and daylight Assessment (KJ Tait Engineers)*

Assesses the impact of the proposed extension on the living room window of 55 Louisville Avenue using the Using 'Vertical Sky Component' and 'Average Daylight Factor' calculations. It concludes that the scheme satisfies technical guidance in the BRE document: 'Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice' and that the proposal would have negligible impact on the available daylight afforded to the living room of the adjacent property.

### **CONSULTATIONS**

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**Roads Development Management** – No objection.

**Ashley And Broomhill Community Council** – No response received.

### **REPRESENTATIONS**

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None

### **MATERIAL CONSIDERATIONS**

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#### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

#### **Aberdeen City and Shire Strategic Development Plan (2014) (SDP)**

The purpose of the SDP is to set a spatial strategy for the future development of the Aberdeen City and Shire. The general objectives of the plan are promoting economic growth and sustainable economic development which will reduce carbon dioxide production, adapting to the effects of climate change, limiting the use of non-renewable resources, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility.

From the 29 March 2019, the Strategic Development Plan 2014 will be beyond its five-year review period. In the light of this, for proposals which are regionally or strategically significant or give rise to cross boundary issues between Aberdeen City and Aberdeenshire, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in line with Scottish Planning Policy 2014.

The Aberdeen City Local Development Plan 2017 will continue to be the primary document against which applications are considered. The Proposed Aberdeen City & Shire SDP 2020 may also be a material consideration.

**Aberdeen Local Development Plan (ALDP)**

Policy D1 - Quality Placemaking by Design

Policy H1 - Residential Areas

**Supplementary Guidance (SG)**

The Householder Development Guide (HDG)

**EVALUATION**

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**Aberdeen City and Shire Strategic Development Plan (SDP)**

In terms of assessment against the Strategic Development Plan, due to the small scale nature of this proposal the proposed development is not considered to be strategic or regionally significant, or require consideration of cross-boundary issues and, therefore, does not require detailed consideration against the SDP.

**Principle of Development**

The application site is located in a residential area, under Policy H1 of the ALDP, and the proposal relates to householder development. Householder development would accord with this policy in principle if it does not constitute over development, adversely affect the character and amenity of the surrounding area, and it complies with the Supplementary Guidance, in this case the Householder Development Guide (HDG). These issues are assessed in the below evaluation.

**Design and Scale**

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policy D1 of the ALDP. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment.

The proposed fence would be of a domestic scale and height that would have negligible impact to the character and visual amenity of the original dwelling and the surrounding area, in compliance with the HDG and Policies D1 and H1 of the ALDP.

The HDG states that:

*'Proposals for extensions ... should be architecturally compatible in design and scale with the original house and its surrounding area. Materials used should be complementary to the original building. 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.'*

Notwithstanding the maximum height of the extension would be lesser than that of the original dwelling, the proposed extension is not of a design, form and scale that is compatible with the original house and the surrounding area. It would be a two-storey flat roofed extension that would rise significantly above the eaves. The scale and massing from its two storey element would be particularly emphasised on the northwest gable, whereby it would project almost directly out of the pitched roof of the dwelling. The extension would therefore serve to dominate the original granite-built pitched roofed 1½ storey form of the dwelling.

It must be highlighted that the Planning Authority is not opposed to a contemporary design approach, nor the contemporary materials proposed. The proposal would have the same finish as the pitched roofed extension which currently has planning permission on the site (Ref: 180601/DPP). Nevertheless, unlike the previously approved extension, its two storey flat roofed form would be significantly greater in terms of massing and scale relative to the original dwelling.

Notwithstanding every planning application is assessed on its own merits, the grant of planning permission of such a proposal could set an unwelcome precedent for extensions of this scale and form to original granite dwellings, which would be to the detriment of the character and visual amenity of the surrounding area.

It is recognised that the extension would not result in the footprint of the dwelling being doubled and less than 50% of the garden ground would be covered by development, in compliance with the Householder Development Guide. It is indeed slightly lesser in footprint than that what currently has planning permission on the site (Ref: 180601/DPP). Notwithstanding the substantial scale and massing, the development would not necessarily constitute over-development of the overall site in terms of ground built upon and significantly increasing the intensity of the use of the site. Nevertheless, by way of its two storey form, scale and massing, the design of the proposed extension would not reflect or relate to the character of the area, which is predominantly that 1½ storey gable roofed properties. The design and scale of the proposal would thus conflict with the Supplementary Guidance: 'The Householder Development Guide', and policies D1 and H1 of the ALDP.

### **Amenity**

The Householder Development Guide states with respect to assessing daylight that '*A useful tool in assessing the potential impact of proposed development upon existing dwellings is the BRE Information Paper on 'Site Layout Planning for Daylight'. This document sets out techniques which can be applied as a means of assessing the impact of new development upon daylighting.*'

The 45-degree method in this BRE Information Paper and the Householder Development Guide is the standard assessment for assessing the affected daylight of existing windows to extensions which are perpendicular to these, as in this case. Using this method, the proposed extension would not adversely affect the level of background daylight afforded to the living room of the adjacent residential property, 55 Louisville Avenue. A Sunlight and Daylight Assessment has been submitted, which used methodology found in BRE document: 'Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice', a BRE document that is referred to in the BRE Information Paper on 'Site Layout Planning for Daylight', which in turn is referred to in the Supplementary Guidance: 'The Householder Development Guide'. Whilst the standard 45-degree rule method has not been used in the submitted assessment, the results of its Vertical Sky Component assessment also finds that the proposed extension would not adversely affect the daylight of the window of the affected property. The proposed extension would also not adversely affect the daylight of any of the other habitable rooms of any of the adjacent properties given its distance from these. The proposed extension would thus not adversely affect the amenity afforded to the neighbouring residential properties with respect to background daylight.

The 45-degree rule sunlight tests in the Householder Development Guide show that the proposed extension would have a minor impact to the level of sunlight afforded to less than c.3sqm of the rear curtilage of 61 Louisville Avenue to the northwest and c.4.6sqm of the rear curtilage of 55 Louisville Avenue to the southeast. Given the minor area of these spaces relative to the overall area of the curtilage of these properties, the minor impact would not result in a reduction of the level of amenity currently afforded to these spaces to a degree that would warrant the refusal of planning permission.

The windows in the rear elevation of the extension would primarily look down over the rear curtilage of the property and would be positioned at a sufficiently indirect angle and distance to not adversely affect the level of privacy afforded to the neighbouring properties.

The fence would not be of a height or siting whereby it would have a negligible impact to the level of amenity afforded to neighbouring properties.



The proposed extension and fence would have negligible adverse impact on residential amenity in terms of the level of privacy, sunlight and background daylight afforded to neighbouring properties, in accordance with Policies H1 and D1 of the ALDP, and the SG.

## **RECOMMENDATION**

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Refuse

## **REASON FOR RECOMMENDATION**

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As a result of its flat roofed two storey form, the proposed extension would not be architecturally compatible in design, massing and scale with the original 1½ storey gable roofed form and design of the dwelling and would have a detrimental impact on the character and visual amenity of the surrounding area. The grant of planning permission for such a proposal could set an unwelcome precedent for extensions of this two-storey scale and form to 1½ storey dwellings in the surrounding area, to the detriment of the character and visual amenity of the surrounding area. The proposal would therefore conflict with Policies D1 – Quality Placemaking by Design and H1 – Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide'. There are no material planning considerations that warrant the grant of planning permission in this instance.

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100176454-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

Rear extension to existing dwelling house, forming a kitchen and living room, and master bedroom

Has the work already been started and/ or completed? \*

No  Yes - Started  Yes – Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Tinto Architecture Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Mark	Building Name:	Unit 3 Millhouse
Last Name: *	Hadfield	Building Number:	
Telephone Number: *	01224 821 670	Address 1 (Street): *	Grandholm Crescent
Extension Number:		Address 2:	Bridge of Don
Mobile Number:		Town/City: *	Aberdeen
Fax Number:		Country: *	Scotland
		Postcode: *	AB22 8BB
Email Address: *	mark@tintoarchitecture.com		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Lynne	Building Number:	57
Last Name: *	Hendry	Address 1 (Street): *	Louisville Avenue
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	AB15 4TT
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

57 LOUISVILLE AVENUE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB15 4TT

Please identify/describe the location of the site or sites

Northing

805005

Easting

391924

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

Meeting  Telephone  Letter  Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Multiple discussions following previous approval at the site surrounding the provision of a flat vs a pitched roof. Multiple adjustments were made to the scheme hereby attached in conjunction with planning. The outstanding item was the concern of overshadowing and daylighting provision of the scheme. We have not had a study undertaken on this front which confirms we are in full compliance with the householder development guidance.

Title:

Mr

Other title:

First Name:

Roy

Last Name:

Brown

Correspondence Reference Number:

Planning Meeting (Ref:

Date (dd/mm/yyyy):

06/06/2019

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \*

Yes  No

If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mark Hadfield

On behalf of: Mrs Lynne Hendry

Date: 12/08/2019

Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

- a) Have you provided a written description of the development to which it relates? \*  Yes  No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \*  Yes  No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? \*  Yes  No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale.  Yes  No
- e) Have you provided a certificate of ownership? \*  Yes  No
- f) Have you provided the fee payable under the Fees Regulations? \*  Yes  No
- g) Have you provided any other plans as necessary? \*  Yes  No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- Existing and Proposed elevations.
- Existing and proposed floor plans.
- Cross sections.
- Site layout plan/Block plans (including access).
- Roof plan.
- Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding.  Yes  No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \*  Yes  No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

## Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Mark Hadfield

Declaration Date: 12/08/2019

## Payment Details

Online payment: ABSP00004322  
Payment date: 12/08/2019 10:50:00

Created: 12/08/2019 10:50



## **DECISION NOTICE**

### **The Town and Country Planning (Scotland) Act 1997**

### **Detailed Planning Permission**

Mark Hadfield  
Tinto Architecture Ltd  
Unit 3 Millhouse  
Grandholm Crescent  
Bridge Of Don  
Aberdeen  
AB22 8BB

on behalf of **Mrs Lynne Hendry**

With reference to your application validly received on 12 August 2019 for the following development:-

**Erection of 2 storey extension to rear and timber fence and gate to side at 57 Louisville Avenue, Aberdeen**

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

<b>Drawing Number</b>	<b>Drawing Type</b>
2414 - EX001 Rev A	Location Plan
2414 - L(00)001 Rev A	Multiple Floor Plans (Proposed)
2414 - L(04)001 Rev A	Multiple Elevations (Proposed)
2414 - L(05)001 Rev A	Cross Section (Proposed)
2414 - L(90)001 Rev A	Site Layout (Proposed)

#### **REASON FOR DECISION**

The reasons on which the Council has based this decision are as follows:-

As a result of its flat roofed two storey form, the proposed extension would not be architecturally compatible in design, massing and scale with the original 1½ storey gable roofed form and design of the dwelling and would have a detrimental impact on the character and visual amenity of the surrounding area. The grant of planning permission for such a proposal could set an unwelcome precedent for extensions of this two-storey scale and form to 1½ storey dwellings in the surrounding area, to the detriment of the character and visual amenity of the surrounding area. The proposal would therefore conflict with Policies D1 - Quality Placemaking by Design and H1 - Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide'. There are no material planning considerations that warrant the grant of planning permission in this instance.

**Date of Signing** 25 October 2019



**Daniel Lewis**  
Development Management Manager

## **IMPORTANT INFORMATION RELATED TO THIS DECISION**

### **DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)**

None.

### **RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at [www.eplanning.scot](http://www.eplanning.scot).

Notices of review submitted by post should be sent to Strategic Place Planning (address at the top of this decision notice).

## **SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION**

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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# Consultee Comments for Planning Application 191253/DPP

## Application Summary

Application Number: 191253/DPP

Address: 57 Louisville Avenue Aberdeen AB15 4TT

Proposal: Erection of 2 storey extension to rear

Case Officer: Roy Brown

## Consultee Details

Name: Mr Nathan Thangaraj

Address: Aberdeen City Council, Marischal College, Broad Street, Aberdeen AB10 1AB

Email: nthangaraj@aberdeencity.gov.uk

On Behalf Of: ACC - Roads Development Management Team

## Comments

I note this application for the erection of 2 storey extension to rear at 57 Louisville Avenue, Aberdeen AB15 4TT. The site is located in the outer city, outwith any controlled parking zone.

The property is currently 3 bedrooms and will remain as 3 bedrooms after the proposed works. This retains the same number of associated parking provisions.

I can confirm that Roads Development Management have no objection to this proposal.

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## **National Planning Policy**

Scottish Planning Policy (SPP)

<https://www.gov.scot/Resource/0045/00453827.pdf>

## **Aberdeen Local Development Plan (ALDP)**

H1: Residential Areas;

D1: Quality Placemaking by Design;

## **Supplementary Guidance**

Householder Development Guide

<https://www.aberdeencity.gov.uk/sites/default/files/2.1.PolicySG.HouseHoldDesignGuide.pdf>

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100176454-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:  You must enter a Building Name or Number, or both: \*

First Name: \*  Building Name:

Last Name: \*  Building Number:

Telephone Number: \*  Address 1 (Street): \*

Extension Number:  Address 2:

Mobile Number:  Town/City: \*

Fax Number:  Country: \*

Postcode: \*

Email Address: \*

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Lynne"/>	Building Number:	<input type="text" value="57"/>
Last Name: *	<input type="text" value="Hendry"/>	Address 1 (Street): *	<input type="text" value="Louisville Avenue"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB15 4TT"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="57 LOUISVILLE AVENUE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB15 4TT"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="805005"/>	Easting	<input type="text" value="391924"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Erection of 2 storey extension to rear Please note this description was amended by the Planner WITHOUT consent/agreement - original description was "Rear extension to existing dwelling house, forming a kitchen and living room, and master bedroom"

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

We believe this application has been determined by the use of semantic terminology which is different to that seen in the relevant Policy and Guidance and is informed as a result of the personal design preference of the Planner.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Additional Documents 01 - 07

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

191253/DPP

What date was the application submitted to the planning authority? \*

14/08/2019

What date was the decision issued by the planning authority? \*

25/10/2019

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

Fundamentally required to address the concerns raised in the Notice of Review (attached as a Supporting Document)

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

Visual Assessment of the site would help to clearly demonstrate the small scale of the proposal and demonstrate therefore the compatibility which it achieves under the Policies and Guidance

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

Gate access - this could be easily overcome unaccompanied however

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Mark Hadfield

Declaration Date: 08/11/2019

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# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

**Use BLOCK CAPITALS if completing in manuscript**

**Applicants:**

**Name:** Mrs Lynne Hendry  
**Address:** 57 Louisville Avenue  
Aberdeen  
AB15 4TT

**Agent (if any):**

**Name:** Tinto Architecture Ltd  
**Address:** Unit 3 - Millhouse  
Grandholm Crescent  
Bridge of Don, Aberdeen  
AB22 8BB

**Contact Tel:**

**Contact Tel:** 01224 821 670

**Email:** Lynne\_Robertson1@hotmail.co.uk

**Email:** info@tintoarchitecture.com

**Confirm that all contact should be through this representative:** Yes

**Do you agree to correspondence regarding your review being sent by email:** Yes

**Planning Authority:**

Aberdeen City Council

**Planning Authority Application number:**

191253/DPP

**Site Address:**

As per Applicant address

**Description of proposed development:**

Formation of new extension to rear of the existing dwelling house, and associated internal alterations

**Date of Application:**

12/08/2019

**Date of decision:**

25/11/2019

This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of Application:** *Application for Planning Permission (inc. householder development)*

**Reasons for seeking review:** *Refusal of Application by appointed officer*

**Review Procedure:**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- |  |     |
|--|-----|
| <b>1. Further written submissions</b>                                    |     |
| <b>2. One or more hearing sessions</b>                                   | Yes |
| <b>3. Site Inspection</b>  | Yes |
| <b>4. Assessment of review documents only, with no further procedure</b> |     |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

*We believe that decision regarding the rear extension should be subject of the above procedure.*

**Site Inspection:**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  |     |
|--|-----|
| <b>1. Can the site be viewed entirely from public land?</b>                    | No* |
| <b>2. Is it possible to access the site safely, without barriers to entry?</b> | Yes |

*\*rear garden/patio area accessed via private driveway. Applicant gives permission for this use.*

**Statement:**

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.



State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

**Introduction:**

*The Planning Department has stated as their reason for refusal of this application that:*

*"As a result of its flat roofed two storey form, the proposed extension would not be architecturally compatible in design, massing and scale with the original 1½ storey gable roofed form and design of the dwelling and would have a detrimental impact on the character and visual amenity of the surrounding area. The grant of planning permission for such a proposal could set an unwelcome precedent for extensions of this two-storey scale and form to 1½ storey dwellings in the surrounding area, to the detriment of the character and visual amenity of the surrounding area. The proposal would therefore conflict with Policies D1 - Quality Placemaking by Design and H1 - Residential Areas of the Aberdeen Local Development Plan; and the Supplementary Guidance: 'The Householder Development Guide'. There are no material planning considerations that warrant the grant of planning permission in this instance."*

*This decision statement was preceded by the following:*

*The proposed extension would be an extension that is two storeys in form on a 1½ storey semi-detached dwelling. This form and the overall scale of this extension would serve to dominate the original gable roofed form of the dwelling and would be significant particularly on the northwest elevation. The extension would not be considered to be architecturally compatible with the original design of the original dwelling in its context within the surrounding area and would not comply with the Supplementary Guidance. At the pre-application stage, we had advised that a pitched roofed design with something similar to a 30-degree pitch could be supported, provided it does not adversely affect the daylight of the adjacent property".*

Email from Local Authority – 10/10/2019 @ 15:59

*In this report however, we will demonstrate that this conclusion has been determined by the use of semantic terminology which is different to that seen in the relevant Policy and Guidance and is informed as a result of personal design preference. The semantic 'confusion' is in fact, fundamentally contrary to the Policies and Guidance cited in this decision, and personal preference, whilst potentially unavoidable, should not be seen as a defining factor in determining an application. It is these factors therefore, that we will look to address specifically.*

**Previous Discussion/Background:**

*The original application relating to this project/site/client, was Application 180601/DPP – this was approved after multiple concessions by our client in terms of scale to arrive at an application with which the Planning Department were satisfied. As with the current application, the Client has been very pragmatic and understanding with regard to accepting changes to the design as a result of requests from the Planning Department, as will be alluded to throughout this report.*

*The main reason for the changes to the original application prior to its approval were the same as have been cited above...namely because of the concern that it should be visually subservient in terms of height, mass and scale, daylighting and/or overshadowing factors. An email from the Planning Department to Tinto Architecture (on 05/06/2018 @13:46) highlights this as it states:*

*“As proposed, the section shows that there would be an adverse impact on the neighbouring sunlight and background daylight. We should be willing to support the application if the ridge/eaves of the pitched roofed upper storey is reduced by another 300mm as this would ensure negligible impact to neighbouring amenity”.*

*Upon making these changes, the proposals were considered acceptable in terms of all of these factors (mass, scale, height, amenity and alike) and approved. The Plans and Elevations of which are included in this report as [Additional Documentation 01](#). Consideration of the height, mass, scale, and potential overshadowing of this initial project is vital to the understanding of the current application.*

### ***Pre Application Discussion:***

*Once the Planning Process of the above scheme had been completed, Tinto Architecture began to look into the additional detail required for Building Warrant and Construction. Once this additional detail had been assessed, it became clear that the form agreed with the Planning Department had been lowered such a degree that it was impractical to the needs of the client.*

*Unfortunately, the lowering of the pitched roof proposal resulted in more and more of the first floor internal space being impractical and inefficient, with much of the space towards either side of the extension being unusable due to lack of headroom (you could not stand up where either the desk or the head of the bed are shown on these plans) – this is compounded by the fact that no dormer windows are desirable/acceptable here due to these forming window areas which would be overlooking the neighbours properties.*

*The client therefore asked Tinto Architecture to assess what alternatives could be considered to make this space more practical and usable, whilst simultaneously ensuring that the scale, mass, overshadowing issues of the project remained satisfactory i.e. ensuring that any re-design remained the same size or smaller than the approved.*

*After discussion and consideration of options, it became clear that the only feasible option to both decrease the mass and scale of the proposal, and also increase the amount of usable space internally was to alter the form of the extension from a pitched roof to a flat roof – therefore removing the internal lie-ins at the first floor ceiling. The initial scheme for this flat roofed option is included in this report as [Additional Documentation 02](#). In addition to this change, both Ground and First Floor plan areas were reduced in footprint from the approved scheme, so as to make the plan as efficient (and cost efficient) as possible and to further reduce the mass and scale of the project. This is highlighted in the above noted documentation where a pink outline clearly denotes the larger and more substantial size of the previously approved pitched roof scheme.*

*This new proposal was sent to the Planning Department for Consideration as an amendment to the approved scheme. The Planning department responded to this in an email to Tinto Architecture on 01/02/2019 @11:07. This email confirmed that the application would need to*

be treated as a new application, not as an amendment, and also contained comments that would need to be addressed in order to move forward.

Upon receipt of this email, Tinto Architecture felt that a meeting would be a good way to discuss this revised proposal. This meeting was set up and attended by Tinto Architecture, Planning Department representatives and the Client. The flat roof option was discussed and the representatives of the Planning Department stated verbally that they could indeed see that the proposed scheme was physically of less height, mass and scale than the approved pitched roof scheme but that the Planners had a 'visual preference' for the pitched roof design.

This was extremely disappointing as it is not the role of the department to comment on personal preference for design, but to make clear and consistent decisions in relation to Policy. The Planners were asked at this meeting which areas of specific policy the design did not comply with, but no answers were able to be provided. It became clear that the view of the department rested solely on semantics: i.e. that the Planners consider a flat roof extension to be "two storey" and a pitched roof extension to be "one and a half storey".

The Householder Development Guide, which the Planning Department referred to throughout this conversation, however, refers repeatedly to pitched roof extensions of the same scale/design as the approved scheme as "two storey" – this is accompanied by an image most clearly on the attached extract of this Document. [Additional Documentation 03](#). The term 'one and a half storey' does not appear AT ALL in any of the Policy or Guidance documents referred to as reason for refusal, and the existing house type that we are dealing with in this situation are consistently described as being "two storey houses" in those same documents.

It was also pointed out to the Planners during this meeting that the Householder Development Guide does not show any sketches or examples of flat roofed contemporary design (instead utilising pitched roofs in every example throughout the entire document). It was suggested therefore that this document required more consideration and/or perhaps to look past the sketches therein, taking a common-sense approach given the clear reduction in the size and scale of the new proposal. No additional responses to this request were received.

In order to try and demonstrate our point around the previous concerns (height, mass, scale, and overshadowing), Tinto Architecture also enquired as to where the 'cut off' was between what the authority decided was a flat roof (and therefore considered to be 'two storey, overwhelming and dominant) and a pitched roof (and therefore not two storey, and not overwhelming and dominant). No answer was available at this stage, but it was later confirmed by the Planner that 30 degrees was the arbitrary angle chosen as the 'cut off point' as outlined below.

That ambiguity, and the use of a term not seen in policy is, in essence, the crux of this application:

If the roof of the upper storey is flat (or indeed less than 30 degrees in this instance), the Planning department consider the scheme to be "two storey", and irrespective of the actual physical size, shape, mass and height therefore consider the scheme to be architecturally incompatible in design and scale with, and overwhelming and dominant of the original building.

If the roof of the upper storey is not flat however, but has a pitch of 30 degrees plus (according to the later response of the Planning Department) then the scheme, is not considered to be

*architecturally incompatible in design and scale, and therefore overwhelming and dominant of the original building – despite being clearly of greater size, scale, height, and overall mass.*

*This view is not borne of or reflected in Planning Policy or Guidance but is a convenient 'sidestep' being used to try and align that Policy with a pre-existing and personal viewpoint. As noted above, the Householder Development Guidance refers to this existing house type, and to similar pitched roof extensions clearly as 'two storey' throughout. Hence the pitched roof and flat roof designs are of no material difference with regard to their descriptions in the cited Policy. This is a vital conclusion, as it means that the new, flat roofed design is not being judged on what the Policy and Guidance says, but instead using a term NOT seen in Policy, but which happens to suit the view, preference or personal opinion of the Planner.*

*As further evidence of this personal but non-factual viewpoint, the above noted email, confirming the 'cut off angle' (see Introduction), also states that "A pitched roof reduces its overall massing".*

*This is simply untrue – as is clearly seen in the previously noted supporting documents (using the pink line to show the approved scheme vs the proposed scheme), the proposed flat roof scheme is:*

- 1. Of less floor area (on both floors) than the approved scheme*
- 2. Projects less distance to the rear of the building than the approved scheme*
- 3. Is more than 1.5m lower than the approved scheme*
- 4. Is of less height than the existing dormer window on the existing building\**
- 5. Is of significantly less mass than the approved scheme*

*\*This is especially vital, as the extension cannot be seen to be overwhelming and dominant to the original building, when it is of less height than the existing dormer window elements of the house itself.*

*This email also states that "the biggest issue which prevents the Planning Authority supporting it (or even treating it as non-material variation to the previous permission), is that we estimate that the extension would fail the 45 degree background daylight test in the Supplementary Guidance: 'The Householder Development Guide' (pages 36-37), in that it would adversely affect the level of background daylight into the rear dining room of 55 Louisville Avenue. As that is a habitable room, it would have an adverse impact on the level of amenity afforded to this property. We would welcome a rear elevation of the neighbouring property to ensure that this assessment is accurate."*

*As this was now noted as "the biggest issue", we considered that our argument around the obvious reduction in mass and scale had been recognised.*

*Despite providing our own lighting study for the approved design, an IDENTICAL lighting study for the proposed design [Additional Documentation 04](#). was not considered acceptable when submitted for the flat roofed proposal. This study actually compares the two schemes side by side to highlight the lack of material difference between the schemes. The fact that this study was not considered acceptable alone highlights the discrepancies in how this application was treated second time around – presumably as a result of the Planners 'visual preferences'.*

As a result however, Tinto Architecture therefore had both Pitched roof and Flat Roof options assessed by an independent Consultant (KJ Tait) with regard to daylighting and provided this report, as part of a new application to the Planning Department.

### **The Current Proposal:**

The proposal which this Notice of Review relates to was submitted as a new application following the pre application discussions described above and following receipt of the above noted independent daylighting report, to the Planning Authority on 15/08/2019.

Following the pre-application discussions, Tinto Architecture were still keen to address, in any way possible, the two main issues that the Authority had been concerned with. This, as far as we had been led to believe, was now that:

1. The North West Elevation of the proposed flat roof extension was not stepping in at First Floor level as the other Elevations do, and therefore reading as a single face (despite being materially different on each floor as per the approved design).
2. The daylighting assessment was required to prove that there is no adverse effect of the flat roof design on neighbouring amenity.

These remaining points were addressed as follows:

1. The First Floor was further reduced in size, so as to set the North West Elevation in from the Ground Floor below. As well as the differing material use on each floor, this change helps to break up the apparent mass of the elevation even further than previously, and means that there is a clear and distinct change and reduction in the scale of the extension as you move from Ground to First Floor on ALL elevations. This is a significant architectural step, especially considering this proposal is smaller in mass and scale than the approved proposal to start with. This change also further conceals the first floor when looking from the street, or from the neighbouring properties. [Additional Documentation 05](#). ensuring it is subservient in mass and scale as Policy dictates.
2. As noted, Tinto Architecture employed KJ Tait to undertake the lighting assessment. The result of this was clear and is included in this report as [Additional Documentation 06](#). This report is clear, stating in Section 3.0 Conclusions, that the designs both “fully comply with the daylighting requirements of the BRE guide and the Aberdeen Householder Development Guide”.

From here, we would have expected, that as this application should be determined on the clear compliance of the design with the relevant Policy and Guidance, and not the Design Preference of the Planner/Planning Department, that a positive outcome should have been carried forward. The Planning Department, have however, in this instance, entrenched themselves in taking a view, based entirely on using a term to describe the existing house - namely ‘one and half storey’ – which DOES NOT appear in any relevant Policy or Guidance. Despite the clear and obvious nature of the reduced size, scale, height and mass of the proposal, the Planning Department have stubbornly refuted what is stated in their own Policy and Guidance, namely that this house type is considered ‘two storey’.

To revert to the reasons for refusal, the Planning Department has stated that:

The proposed extension would be an extension that is two storeys in form on a 1½ storey semi-detached dwelling. This form and the overall scale of this extension would serve to dominate the original gable roofed form of the dwelling and would be significant particularly on the northwest elevation. The extension would not be considered to be architecturally compatible with the original design of the original dwelling in its context within the surrounding area and would not comply with the Supplementary Guidance. At the pre-application stage, we had advised that a pitched roofed design with something similar to a 30-degree pitch could be supported, provided it does not adversely affect the daylight of the adjacent property”.

But as we have seen, the proposal is:

1. Of the same typology as the Existing House and of the approved extension in terms of cited Policy and Guidance
2. Of less floor area (on both floors) than the previously approved scheme and of the existing building and within all limits set by Policy and Guidance
3. Projects less distance to the rear of the building than the approved scheme and within all limits set by Policy and Guidance
4. Is more than 1.5m lower than the approved scheme, and less wide than the existing building and previously approved scheme at ALL levels
5. Is of less height than the existing dormer window on the existing building
6. If of significantly less mass than the approved scheme

In terms of “architectural compatibility”, similar flat roofed extension proposals have been approved previously on existing houses of the same typology in Aberdeen City [Additional Documentation 07](#). but the Planning Department refuse to accept ‘precedent’ as each scheme is to be taken on its own merit. In the reasons for refusal however, the planning Department state. “The grant of planning permission for such a proposal could set an unwelcome precedent”. As a side note, it is interesting that precedent can be used as a reason for refusal but cannot be used as means to support an application. By the same logic as we have been made to comply with, the approval of this proposal, should not be allowed to form part of any future, separate applications.

Again, this demonstrates the clear disregard to take this application on its individual architectural merit, instead allowing personal preference and not Policy to dictate reasoning in this instance. It should also be noted that the Planning Department have been unable to give us any reasoning as to why this nearby scheme shown in the additional documentation is considered acceptable but our Proposed design is not, despite being of exactly the same nature, against existing houses of the same type and in similar built areas.

It is clear from the above that the only reason that the Planning Department seem to have cited for the proposal to be considered “architecturally incompatible” in this instance, is the semantic differentiation between “two storey” and “one and a half storey”. We would argue that the term ‘storey’ is being applied arbitrarily in this context, and not in conjunction with Policy: It simply cannot be the case that a larger and taller proposal of greater mass and floor area, can be deemed to be of less “storeys”, in size, scale, and subsequently less overwhelming and dominating than a fundamentally similar scheme of a differing roof pitch, and a significantly reduced mass.

The existing property is, according to this same Policy and Guidance, a two-storey property. The Planning Department are, in this instance, choosing to ignore this fact, instead relying on

*a description of the property as one and a half storey which is not in conjunction with the same Policy and Guidance they are referring to as grounds for refusal.*

*Both the existing building and the extension have a ground floor, and a first floor – and according to the Guidance, are both therefore considered as two storey.*

*The floor levels are set at the same heights (architecturally compatible), and, as can be seen from the drawings and models, the flat roofed extension in no way “dominate[s] the original form or appearance of the dwelling and [is] visually subservient in terms of height, mass and scale. It is of significantly smaller size than the existing building (and previously approved extension), the flat roofed design also sits comfortably lower than the existing building roof line (and previously approved extension). It also sits lower than the existing dormer windows (and previously approved extension). The proposal is also set in from the existing building, projects to the rear less than the previously approved scheme and is in full compliance with Guidance and Policy with regard to amenity/daylighting.*

*According to this same Policy and Guidance, it is these factors above which determine whether a proposal is be considered as “architecturally compatible” and therefore seen as “overwhelming or dominant”.*

*If the pitch of the roof were a to be the determining factor to deny architectural compatibility, this would deny the use of any flat roof extension against a pitched roof dwelling, but as this has been approved previously under the same circumstances, this cannot be the case. Taking this approach would also arbitrarily remove an entire architectural form from forming part of our inherent housing stock and streetscapes. When taken against the Policy to which it should be assessed therefore, it is clear that the proposal is compliant (or not non-compliant if you prefer) in terms of architectural compatibility, design and scale.*

*In terms of the other outstanding factor, i.e. daylighting: an independent report has confirmed that the scheme is in full compliance with Policy and Procedure. As noted previously, we had been told that this was previously “the biggest issue” which prevented the Planning Authority supporting it.*

### **Conclusion:**

*To conclude, we believe that the proposal is in full compliance with the relevant Policy and Guidance cited in the refusal decision of the Planning Department. It is clear that personal design preference has featured as part of a decision-making process, and that the reasons for refusal from the Planning Department rely entirely on semantics: Namely, that the Planning Department consider (in this instance but not in others that could be cited) that the design of the existing house is not “two storey”, despite being referred to as such throughout Policy and Guidance Documentation. The Planning Department have compounded this confusion by stating arbitrarily that the proposed extension design with a flat roof is “two-storey”, but a clearly larger design, of greater height and mass, but with a pitched roof is “one and a half storey”. These descriptions are again, a clear contradiction in terms, are not rooted in Policy, and clearly do not reflect the reality of the built forms being assessed.*

*Both proposals (flat and pitched roof) comprise the same ground and a first floor storeys and have no material differentiation in terms of how they are described in Guidance and Policy. The view of the Planning Department would perhaps be understandable if the proposal had*

*increased in terms of the number of storeys, height, mass and/or scale from the previous scheme, but in fact, the opposite is true: it is significantly reduced.*

*The Pitched Roof scheme was assessed and approved against the Policies in relation to a two storey extension – in acceptance of the simple fact that this is what it is...a two storey proposal. The proposed scheme is no different in that it is in fully compliance with all of the same Policies and Guidance. The simple fact is that this is not the 'preference' of the Planning Department, but that should not form part of a decision.*

*When the policies are read, and this scheme is assessed against them, it is clear that there are no areas with which this does not comply, and therefore there is no reason for it to be refused. To recap the Policy being cited:*

*Policy H1 states that:*

*"within existing residential areas...development will be approved in principle if it:*

- 1. Does not constitute overdevelopment*
- 2. Does not have an unacceptable impact on the character and amenity of the surrounding area*
- 3. Does not result in the loss of valuable and valued areas of open space*
- 4. Complies with the Supplementary Guidance*

*The Supplementary Guidance referred to states that:*

*for Semi-Detached Dwellings "On properties of 2 or more storeys, two storey extensions may be possible, subject to the design considerations set out in the 'General Principles' section above".*

*The General Principle which the Planning Department have stated this proposal is in breach of is that:*

*"Proposals for extensions, dormers and other alterations should be architecturally compatible in design and scale with the original house and its surrounding area".*

*It is clear however, that, in accordance with the cited Policy and Guidance, the proposal IS architecturally compatible with the existing building, being of the same two storey typology, just with a flat roof form rather than a pitch.*

*The decision to refuse this proposal has, unfortunately (and perhaps unavoidably) been compounded by having been influenced by the personal design preferences of the Planning Department for a pitched roof solution. The Policy and Guidance which the proposal is being assessed against has then had the terms referred to within it 'amended' to something which is not part of Policy, but which more suits this personal viewpoint. To accept one design and to refuse another, based on an arbitrary decision around preferred roof pitch, when both proposals 'tick all the same boxes' demonstrates this fact.*

*As we have demonstrated, the flat roofed proposal meets each of the Policy and Guidance requirements in the same ways that the previously approved scheme did also. A proposal with a flat roof, set against a pitched roof building, is nothing new or unusual, and is not something which is noted as being out with Policy or Guidance. In terms of that same cited Policy and*



Guidance, it is in fact of no material difference to the approved pitched roof scheme. We therefore believe that there is no reason for the scheme to be refused and ask that the decision of the Planning Department be reversed in this instance.

**Have you raised any matters which were not before the appointed officer at the time the determination on you application was made?**

No

**List of documents and evidence:**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1. *Previously Approved Plans and Elevations (Pitched Roof Scheme) – areas of the first floor being of insufficient height to be practical for use.*
2. *Pre-Application Discussion Plans and Elevations (Initial Flat Roofed Scheme). Highlighting the reduction in size from the approved Pitched Roof Design*
3. *Extract from ACC Supplementary Guidance – highlighting the approved pitched roof scheme to be termed two-storey, alongside a house of the same type.*
4. *Tinto Architecture Lighting Study – accepted by the Council for the Pitched Roof Design, but then dismissed for the Flat Roofed Design*
5. Proposed Flat Roof Design showing further mass and scale reductions as requested by the Planning Department, but then refused.
6. KJ Tait's independent Lighting Study – stating the scheme is in full compliance with Policy and Guidance in this respect.
7. Alternative Design on a different dwelling of the same type. Planning will not accept this as precedent but will cite precedent as a reason for refusal.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

**Checklist:**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form	Yes
Statement of your reasons for requiring a review	Yes
All documents, materials and evidence you intend to rely on	Yes

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

**Declaration:**

I the agent hereby serve notice on the Planning Authority to review the application as set out on this form and supporting documents.

**Signed**



**Date:** 08/11/19

**Print:**

Mark Hadfield (March)  
Architect on behalf of Tinto Architecture Ltd