

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 24 January 2019. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Cameron and Donnelly.

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

### 16 DON TERRACE - FORMATION OF DRIVEWAY (P180912)

1. The Local Review Body (LRB) of Aberdeen City Council met at the Town House to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the request for planning permission for the formation of a driveway at 16 Don Terrace, Aberdeen, Planning Reference 180912). The LRB had deferred consideration of the above application in order to receive further written representations from the appellant as to why an additional matter raised in the Notice of Review had not been highlighted at the time of considering the application being reviewed. The written representation from the applicant was included in the documentation before Members, and advised that the medical condition raised in the Notice of Review had not been diagnosed at the time of the application being considered by the appointed officer.

Councillor Boulton as Chairperson then gave a brief outline of the business to be undertaken. She indicated that the LRB would be addressed by the Assistant Clerk, Mrs Stephanie Dunsmuir as regards the procedure to be followed and also, thereafter, by Mr Gavin Evans who would be acting as the Planning Adviser to the Body in the case under consideration.

The Chairperson highlighted that although the Planning Adviser was employed by the planning authority, he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the LRB only. She emphasised that the officer would not be asked to express any view on the proposed application.

The Local Review Body was then addressed by Mrs Dunsmuir, Assistant Clerk regarding the procedure to be followed, at which time reference was made to the procedure note circulated with the papers calling the meeting and to certain more general aspects relating to the procedure.

In relation to the application, the LRB had before it (1) a delegated report by Ms Sheila Robertson, Planning Technician; (2) the decision notice dated 13 August 2018; (3) links to the plans showing the proposal and planning notices referred to in the delegated report; (4) a letter of representation; and (5) the application and Notice of Review submitted by the applicant along with an accompanying statement with further information relating to the application.

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

Mr Evans explained that the application site was located on the southern side of Don Terrace, and was occupied by a detached 1½ storey granite building of a traditional style. The house was elevated approximately 1.1 metres above street level. The garden ground sat at the same level as the house, and was retained by a granite boundary wall to the street frontage which was 1 metre to 1.3 metres high), was topped with metal railings and had a gate. Mr Evans noted that there were single yellow line parking restrictions to both sides of the Don Terrace, with no parking between 8am and 5pm, Monday to Friday. Don Terrace rose from west to east, with the properties being set progressively higher above street level westwards.

Mr Evans advised that the planning application sought permission for the formation of a car parking space within the front garden, positioned parallel to the street. The formation of the parking space would require the removal of the existing boundary wall and railings, and the excavation of an area of the front garden, with the formation of a new retaining wall between the lowered parking area and the remaining front garden. He noted that the plans indicated that the new retaining wall would re-use materials from the original wall in its construction, along with the railings. A reconfigured stair would also be provided, with a ramp for bins and bikes. The proposal would necessitate the relocation of an existing lamppost and gas service pipe, however this would have to be arranged separately with the relevant service providers by the applicant.

Mr Evans outlined that the request sought the review of the decision of the appointed officer to refuse the application under delegated powers and the stated reasons for refusal were as follows:-

- The loss of granite boundary wall and garden ground, depth of excavation and resultant presence of retaining walls and car parked parallel to the road would be unsympathetic to the visual character and appearance of the existing streetscape;
- This would result in adverse impact on residential character and visual amenity, and could set an undesirable precedent for developments of a similar nature which cumulatively would further erode the established character of the area; and
- For these reasons, the appointed officer had considered that the application was contrary to Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan.

In regard to consultees and objections, Mr Evans advised that one letter of representation had been received from Aberdeen Civic Society which stated that Don Terrace was a lane of some character, that front boundary walls were a strong defining linear feature and that adjustment to allow the driveway would change the appearance of Don Terrace. There had been no objection stated by the Roads Development

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Management Team, however they had noted that the alignment of the driveway was not traditional.

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

- That one concession need not threaten the Don Terrace streetscape;
- That the property was a special case for special consideration in Don Terrace;
- That alternative options for access had been exhausted;
- That on-street parking was not practical;
- That the Council had recently added double yellow lines on the next available parking street spaces;
- That a driveway was a reasonable provision for a family home, particularly where there was a young child;
- That the applicant had been diagnosed with chronic back pain and transporting his young child and heavy shopping to the car was problematic as the vehicle had to be parked so remotely from the house;
- That it would assist the applicant's wife to respond to urgent all-hours call-outs to the community as a local GP;
- That all the granite copings and iron railings would be reincorporated into the front garden;
- That Policies D1 and H1 should not be used to refuse the application; and
- That provision for charging an electric car was not practical.

Mr Evans advised that the applicant had expressed the view that further procedure was not required. The Chairperson and Councillors Cameron and Donnelly all indicated in turn that they each had enough information before them with the provision of the further written representation from the applicant, and therefore agreed that a site visit was not required and that the review under consideration should be determined without further procedure.

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

Policy H1 - Residential Areas: Householder Development stated that proposals should:

- Not constitute overdevelopment;
- Not result in an unacceptable impact on the character and amenity of the surrounding area; and
- Comply with Supplementary Guidance

Policy D1 - Quality Placemaking by Design required a development to be of a high standard of design, which demonstrates an understanding of its context.

Policy D5 – That the Council would seek retention and appropriate re-use of granite buildings and features, including walls.

Supplementary Guidance – Transport and Accessibility stated that:-

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- Permission would not normally be granted if a driveway for one car would remove on-street parking;
- The distance from junction should normally be 15 metres, but 10 metres might be acceptable in some circumstances;
- The driveways must be a minimum of 5 metres long, and if they were to be more than 7 metres, they should achieve 10 metres in order to avoid overhanging of footway; and
- Driveways must be internally drained.

In terms of material considerations, Mr Evans advised that in determining the appeal, Members should take into consideration any material considerations they felt were relevant to the application that would point to either overturning the original decision or dismissing the review.

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

**Following discussion, Members agreed by a majority of two to one to uphold the decision of the appointed officer to refuse the application.**

Councillor Cameron advised that he disagreed that the application would be unsympathetic to the surrounding area, highlighting that the streetscape had already been disrupted by other developments in the street, and therefore he did not consider that Policy D1 applied. He noted the intention to retain and reuse the granite and therefore did not consider that the application went against Policy D5 (Our Granite Heritage). He therefore stated that he would over-turn the decision of the appointed officer and approve the application.

In coming to a decision, Councillor Donnelly stated that he was sympathetic to the health issues raised by the applicant, however he considered that the boundary wall was a strong feature and that its removal would harm the character of the area and could set a precedent, therefore he would be moving to uphold the decision of the appointed officer.

The Chairperson stated that she felt it was an attractive streetscape currently and therefore the removal of the granite would have an adverse effect on the character of the area and could set an undesirable precedent for developments of a similar nature, therefore she agreed that the application was contrary to Policies D1 and H1 of the Aberdeen Local Development Plan and would uphold the decision of the appointed officer.

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material consideration in so far as these were pertinent to the determination of the application.

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**More specifically, the reasons on which the Local Review Body based the decision were as follows:-**

- That the loss of granite boundary wall and garden ground, depth of excavation and resultant presence of retaining walls and car parked parallel to the road would be unsympathetic to the visual character and appearance of the existing streetscape;
- That this would result in adverse impact on residential character and visual amenity, and could set an undesirable precedent for developments of a similar nature which cumulatively would further erode the established character of the area; and
- For these reasons, the application was contrary to Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan.

- **COUNCILLOR MARIE BOULTON, Chairperson**

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