

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 11 March 2020. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Allan and Avril MacKenzie.

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

UNDEVELOPED LAND TO THE EAST OF 1 MOUNTHOOLY WAY, ABERDEEN - ERECTION OF 2 STOREY CLASS 3 (FOOD AND DRINK) UNIT WITH ASSOCIATED CAR PARKING AND WORKS - PLANNING REFERENCE: 191103/DPP

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 erection of a two storey class 3 (Food and Drink) unit with associated car parking and works at undeveloped land to the east of 1 Mounthooly Way, Aberdeen, Planning Reference 191103/DPP.

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, Mr Mark Masson with regards to the procedure to be followed and also, thereafter, by Ms Lucy Green who would be acting as the Planning Adviser to the Body in the following case under consideration this day.

The Chairperson stated that although the Planning Adviser was employed by the planning authority, she had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the 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 Mr Masson, 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 Robert Forbes, Senior Planning Enforcement Officer; (2) the application dated 10 July 2019; (3) the decision notice dated 22 October 2019; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant's agent along with an accompanying statement with further information relating to the application; and (6) letters of representation submitted by consultees.

The LRB was then addressed by Ms Green 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.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

Ms Green then described the site advising that it was situated approximately 1 kilometre to the north of the city centre and comprised the vehicular access to an adjacent vacant office building, part of its parking area appears to be an emergency access to the adjacent bus depot and adjacent undeveloped land at the east end of the site.

She indicated that the site was relatively level but there was a significant change in levels at the east end of its frontage, with the undeveloped part of the site elevated about 1m to 1.5m above the public road to the south, with intervening grass slope. There was no footpath on the north side of Mounthooly Way adjacent to the east part of the site and the site levels were such that formation of a footway within the site would not be feasible.

She advised that there was no footpath connection to King Street on its northern side and no pedestrian crossing in the immediate vicinity of the site.

Ms Green 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:-

- Insufficient information – no technical assessment had been submitted in relation to noise or odour impact relating to the proposed use, which conflicted with policy H2 (Mixed Use Areas) and relative to policies NC4 Sequential Approach and Impact) and NC5 (Out of Centre Proposals) within the Aberdeen Local Development Plan 2017 (ALDP17);
- Design issues – the building would be unduly close to the road and therefore unduly visually prominent. There was no detailed landscaping scheme submitted as expected by policy D2 (Landscape) ALDP17. There was also no dedicated pedestrian access, appropriate servicing facilities nor mitigatory soft planting on site which demonstrated that the proposal represented overdevelopment, therefore conflicted with policies D1 (Quality Placemaking by Design) and D2; and
- Road/Public safety – There was an absence of an acceptable pedestrian access to the site and the development would not satisfy the sustainable transport objectives of policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel).

In relation to the appellants case, Ms highlighted the following responses:-

- Insufficient information – likely noise and/or odours would be insignificant in the context of the mix uses, given its location. The bus depot had no legal right of way over the applicant's land, therefore is irrelevant. There would be no impact on the vitality of the neighbouring centres;
- Design issues – there would be sufficient room for a landscaping buffer to be incorporated into the proposals and could be addressed by a landscaping condition as was customary; and
- Road/Public safety – pedestrian access was addressed via proposed road markings highlighting a pedestrian walkway which linked to a footpath on the southside of the site to the entrance.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

In relation to the consultation submissions, Ms Green made reference to the safety concerns outlined by the Roads Team and the environmental assessments not submitted to the Environmental Health Team.

The Chairperson and Councillors Allan and MacKenzie 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.

Ms Green indicated that should members wish to overturn the decision of the appointed officer, consideration should be given to any conditions which would be appropriate in order to make the proposal acceptable, however all conditions must meet the six tests set out by Scottish Government policy.

The Local Review Body then asked questions of Ms Green, specifically regarding the mixed use proposal, emergency access to the bus station and delivery access.

The Chairperson and Councillors Allan and MacKenzie advised in turn and unanimously agreed to uphold the decision of the appointed officer to refuse the application.

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material 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:-

- (1) Insufficient information - The acceptability of the proposal in terms of compliance with policy H2 (Mixed Use Areas) within Aberdeen Local Development Plan 2017 is dependent on it being demonstrated that there would be no conflict with adjacent uses. Given that no technical assessment has been submitted in relation to noise and/or odour impact relating to the proposed use, it remains to be demonstrated that the use would accord with policy H2. In light of the proposed access arrangements, whereby pedestrians would be required to cross the existing bell-mouth / vehicle egress serving the office building and the bus depot (secondary access), introduction of the additional commercial use within the site would be likely to conflict with the operation of existing authorised uses, thereby resulting in conflict with policy H2. The acceptability of the proposal in terms of assessment relative to policies NC4 (Sequential Approach and Impact) and NC5 (Out of Centre Proposals) within Aberdeen Local Development Plan 2017 and Scottish Planning Policy regarding Town Centres remains to be demonstrated.
- (2) Design Issues. It is considered that the building would be unduly close to the road and therefore unduly visually prominent. No detailed landscaping scheme has been submitted as expected by policy D2 (Landscape) within Aberdeen Local Development Plan 2017. No soft landscaping is proposed and due to the

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

- footprint of building proposed and SUDS proposal, there would be no scope for any meaningful planting. The absence of any intervening screening or soft landscaping between the proposed building and the road is of particular concern, with the building having the appearance of being “shoe-horned” into the site. This, combined with the absence of dedicated pedestrian access, appropriate servicing facilities and mitigatory soft planting on site is considered to demonstrate that the proposal represents overdevelopment of the site and therefore conflicts with the objectives of policies D1 (Quality Placemaking by Design) and D2 (Landscape) within Aberdeen Local Development Plan 2017.
- (3) Road / public safety. It is considered that the detailed pedestrian access arrangement, whereby pedestrians would be required to cross the existing bell-mouth / vehicle access / egress serving the office building and the bus depot (secondary access), the proposal would result in a conflict between existing vehicular traffic and pedestrians accessing the building with consequent risk to public safety, particularly for vulnerable pedestrians and visitors to the site. This matter is exacerbated by the absence of a footway along the site frontage, the relatively high vehicle movements on Mounthooly Way, the uncertainty regarding servicing arrangements, the proximity to a fire station and police station access and the absence of a pedestrian crossing adjacent to the site. It is considered that none of these matters can be addressed by means of imposition of condition. In the absence of an acceptable pedestrian access to the site it is considered that the development would not satisfy the sustainable transport objectives of policies T2 (Managing the Transport Impact of Development) and T3 (Sustainable and Active Travel) within Aberdeen Local Development Plan 2017 or the Council’s approved Local Transport Strategy.

5 DEVENICK PLACE, ABERDEEN - ERECTION OF A 2 STORY EXTENSION TO SIDE GABLE - PLANNING REFERENCE: 191183/DPP

2. The Local Review Body then considered the second request for a review to evaluate the decision taken by an appointed officer under the Council’s Scheme of Delegation to refuse the application for the erection of a two storey extension to the side gable at 5 Devenick Place, Aberdeen, Planning Reference 191183/DPP.

The Chairperson advised that the LRB would be addressed by Mr Matthew Easton and advised Members that although Mr Easton 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 Jane Forbes, Planner; (2) the application dated 29 July 2019; (3) the decision notice dated 17 October 2019 (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

along with an accompanying statement with further information relating to the application; and (6) a letter of representation from the Council's Roads Team.

The LRB was then addressed by Mr Easton 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 Easton then described the site advising that it was located on the west side of Devenick Place. It comprised a two storey, end-of-terrace dwellinghouse, situated on a wedge-shaped plot extending to an area of some 205m². The property had an enclosed rear garden, accessed along a 1m wide path which extended the length of the mutual boundary with 5 Devenick Place, which lay to the east. To the front (south), there was an area of garden ground and a dropped kerb which allowed access to an unsurfaced area of hardstanding utilised for parking. On-street parking within the neighbourhood was controlled by permit.

He indicated that detailed planning permission was sought for the erection of a two-storey pitched roofed extension to the eastern gable of the house, to provide internal garage accommodation with bedroom accommodation above at first floor level. The extension would extend to a width of some 4.5 metres along the front building line, reducing to a width of 2.4 metres at the rear, which would result in an angled side elevation which fits with the 'wedge' shaped site.

Mr Easton outlined the appointed Officer's reasons for refusal advising that planning officers found that it would result in a scale of development which would be deemed excessive for the application site and which would not be in-keeping with the established pattern of development in the surrounding residential area. Whilst the general principle of residential development within this area was acceptable, the impact of the proposed development in this instance would be considered unacceptable for its context, given that it raised fundamental issues in terms of the design, scale and positioning of development within the site, and the adverse impact which this would have on the character and appearance of the area. On this basis the proposal failed to comply with the requirements of Policy H1 (Residential Areas), Policy D1 (Quality Placemaking by Design) and the Supplementary Guidance on 'Householder Development'.

Mr Easton explained that planning officers indicated that the proposed development failed to deliver garage accommodation with internal dimensions required by 'Transport and Accessibility' guidance and had not sought to address the resulting shortfall in parking, thereby failing to comply with the Policy T2 (Managing the Transport Impact of Development).

In relation to the appellants case, Mr Easton indicated that the appeal statement highlighted four main grounds of appeal as follows:-

- that the proposal was only marginally out with the planning guidance and that due to the shape of the site this was the only option to form a side extension;

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

- that they disagreed that the proposal would be out of character and detrimental to the streetscape, indicating that the extension would sit comfortably in the area and would not be overbearing;
- that there were no objections from neighbours; and
- that the garage design provision had an area greater than the minimum standards and more generous than currently being allowed and constructed by developers in new housing development.

In relation to the consultee response, Mr Easton advised that the Council's Roads Team objected to the proposal due to the garage being too small. He indicated that Garthdee Community Council did not provide any comments and there were no representations received from members of the public.

The Chairperson and Councillors Allan and MacKenzie 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 Easton outlined the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017, namely policy H1 (Residential Areas: Householder Development), policy D1 (Quality Placemaking by Design) and Policy T2 (Transport and Accessibility).

In terms of material considerations, Mr Easton intimated that the applicant had provided details of several examples at other locations which they considered to be similar and act as precedents. He advised that the householder guidance stated that any extensions which were approved prior to the introduction of the guidance, which was 2017, would not be considered to provide justification for a proposal, which would otherwise fail to comply with the guidance. Of the five examples provided, Mr Easton indicated that three dated from the 1990s and the others were from 2006 and 2007, therefore no weight should be given to these examples in determining the review. Similarly, whilst examples of garages by housebuilders had been provided, no indication as to where these were or when they were approved were available so he suggested no weight should be given to this.

Mr Easton responded to a question from Councillor Mackenzie regarding the minimum standard for garage extensions and also from the Chairperson regarding the layout of the proposal and the photographs which had been shown.

The Chairperson and Councillors Allan and MacKenzie advised in turn and unanimously agreed 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.

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

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

(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 proposed extension was considered to be acceptable in terms of its size, design and layout within the site. It would sit comfortably in the street and would not have an adverse impact upon the character of the area, in accordance with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design) of the ALDP. Although the dimensions of the garage did not meet the requirements of the Transport and Accessibility Supplementary Guidance and Policy T2 (Managing the Transport Impact of Development), it was considered that it could still be used to accommodate a vehicle and was therefore acceptable.

CONDITION - (01) EXTERNAL FINISHING MATERIALS

No development will take place unless details of the proposed external finishing materials for the extension have been submitted to and approved in writing by the planning authority. Thereafter work should be undertaken in accordance with the approved details

Reason - to ensure that the development did not harm the visual amenity of the area.

25 BRAEMAR PLACE, ABERDEEN - FORMATION OF A DRIVEWAY AND ALTERATIONS TO BOUNDARY WALL TO FRONT - PLANNING REFERENCE: 191665/DPP

3. The Local Review Body then considered the third request for a review to evaluate the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the application for the formation of a driveway and alterations to the boundary wall to the front of 25 Braemar Place, Aberdeen, Planning Reference 191665/DPP.

The Chairperson advised that the LRB would again be addressed by Mr Matthew Easton and reminded Members that although Mr Easton 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 Jamie Leadbeater, Planner; (2) the application dated 1 November 2019; (3) the decision notice dated 20 December 2019 (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted by the applicant along with an accompanying statement with further information relating

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

to the application; and (6) letters of representation submitted by the Council's Roads Team, the Aberdeen Civic Society and two residents living in the neighbourhood of the proposed application.

The LRB was then addressed by Mr Easton 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 Easton then described the site advising that was located on the south side of Braemar Place. It comprised a two storey, end-of-terrace building comprising a ground and first floor flat. The front garden featured an area of gravel with soft landscaping borders and paths. The flat to which the application related was on the first floor whereas as a separate flat known as 23 Braemar Place was on the ground floor.

He explained that Braemar Place was characterised with predominantly soft landscaped gardens set in front of two storey granite terraced flatted buildings and semi-detached houses and low-rise granite walls with gaps for gates and footpaths along front boundaries. Of the 45 homes on this stretch of Braemar Place, five had driveways.

He indicated that detailed planning permission was sought for the formation of a double driveway measuring 6m by 6m within a shared front garden space, including the removal of 5.5m of the front boundary granite wall. The existing gravel area would be used for parking.

Mr Easton outlined the appointed Officer's reasons for refusal advising that in considering the application he found that the proposal would adversely harm the prevailing visual character of the Braemar Place street scene and neighbouring properties residential amenity, specifically as the proposed arrangement would result in increased noise disturbance to number 21, 23 and 27 Braemar Place. He indicated that residents of the street would have further to park their vehicles as a result of the driveway reducing the level of on-street parking capacity available to residents. Therefore, the proposal would fail to comply with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017. It was also found to fail to comply with the guidance on driveways for flats outwith conservation areas under Section 6.2 of the Transport & Accessibility supplementary guidance and therefore the proposal would be contrary to the aims of Policy T2 (Managing the Transport Impact of Development) in the Aberdeen Local Development Plan 2017.

In relation to the appellants case, Mr Easton made reference to the appeal statement and highlighted the following:-

- that there would be no adverse impact on the visual appearance of Braemar Place as a result of the driveway and that the loss of the boundary wall was not of significance;

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

- that the supplementary guidance relating to the presumption against parking in the front gardens of the tenements did not apply as the building was not a tenement; and
- that the applicant had advised that should consent be granted, an agreement would be entered into with the owner of the lower ground floor flat so that both could use the two spaces;

In relation to the consultee response, Mr Easton intimated that the Council's Roads Team had not objected to the proposal and considered the layout of the driveway acceptable. They also advised that loose material (e.g. stone chippings) must not be used to surface the first 2 metres of driveway adjacent to the footway.

He indicated that three representations had been received, one from the Aberdeen Civic Society and two from neighbours, all of which object to the proposals. The reasons were summarised as follows:-

- the proposal removes garden ground and boundary wall and replaces it with parked cars, affecting the character and attractiveness of the street.
- the increase in hard surface could increase the risk of flooding; and
- it sees the creation of private parking spaces, the use of which would be restricted, at and the expense of public on street parking which is free for anyone to use.

The Chairperson and Councillors Allan and MacKenzie 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 Easton outlined in detail, the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017, namely policy H1 (Residential Areas: Householder Development), policy D1 (Quality Placemaking by Design) and Transport and Policy T2 (Transport and Accessibility and its Supplementary Guidance on parking standards).

Mr Easton also highlighted that the applicant had noted several other driveways which existed on this stretch of Braemar Place and explained that there were five driveways, three of these were historic and had been around for many years, with the other two approved in 2008 and 2013, prior to the adoption of the current local development plan and guidance.

Mr Easton then responded to questions from members relating to the loss of amenity for neighbours including the loss of car parking spaces to the front of the properties and the retention of the wall.

Members agreed by a majority of two to one to reverse the decision of the appointed officer and to approve the application conditionally.

The Chairperson supported the appointed officer's reasons to refuse the application.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

11 March 2020

Councillors Allan and Mackenzie indicated in turn that they were minded to overturn the officer's decision and to approve the application both advising that although one space would be lost on the street, there would be two cars taken off the street and part of the wall would be retained including soft landscaping.

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 proposal would result in one space being lost on the street but two cars would be taken off the street. The soft landscaping within the garden would be retained which would minimise any harm to the character of the street in accordance with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking by Design) in the Aberdeen Local Development Plan 2017.

CONDITION: (01) DRIVEWAY SURFACING

Notwithstanding approved drawing 1962-02, no development shall take place unless a revised layout drawing (showing the first 2 metres of the driveway adjacent to the public footway being surfaced in a solid surface featuring no loose material (for example stone chippings)) has been submitted to and approved in writing by the planning authority. Thereafter work shall be undertaken in accordance with the approved details.

Reason - to minimise the risk of loose material being deposited on the pavement or road which would be to the detriment of pedestrian and road user safety.

- COUNCILLOR MARIE BOULTON, Chairperson

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL
11 March 2020