

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 28 May 2020. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors .

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

GRAPHIX HOUSE, WELLINGTON CIRCLE - PARTIAL CHANGE OF USE FROM OFFICE WITH WORKSHOP TO RESTAURANT (CLASS 3) WITH HOT FOOD TAKEAWAY (SUI GENERIS) INCLUDING INSTALLATION OF FENCE WITH GATE AND ASSOCIATED WORKS - 191800

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 partial change of use from office with workshop to restaurant (Class 3) with hot food takeaway (sui generis) including installation of fence with gate and associated works at Graphix House, Wellington Circle, Aberdeen, Planning Reference 191800/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 Mr Gavin Evans 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, he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

The Local Review Body was then addressed by 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 Aoife Murphy, Senior Planner; (2) the application dated 4 December 2019; (3) the decision notice dated 13 February 2020; (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 Mr Evans who advised that the review had been submitted with all necessary information within the time limit of three months following the decision of the appointed officer.

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Mr Evans then described the site advising that it was located on the southern side of Wellington Circle, immediately opposite the car park serving Ikea and just along from a Starbucks drive-through which was within that car park. Immediately to the east is Wellington Business Park, a collection of smaller industrial units arranged around a central yard space, with Lochside Academy located approximately 300m away to the north east. He intimated that the site itself accommodated a 2-storey pitched roof commercial building, containing a workshop, offices and a car park. The premises were historically occupied solely by XIC, a commercial graphic design and printing company, however it was understood from the applicants' submissions that XIC's demands for space had reduced over time, leading to part of the building being let to others and a further area being unsuccessfully marketed for rental since May 2019, with no viewings in that time. He explained that the applicants' statement in support of their application also highlighted that the reception area was now redundant, with limited prospect of rental for business and industrial use. The building fronted Wellington Circle, and access was gained directly off the road. The site was within an area zoned for principally business and industrial uses, where policy B1 would apply. The land to the north, including Ikea, Makro, Pure Gym and Starbucks, was identified as an opportunity site in the Aberdeen Local Development Plan, with potential for change of use to class 1 (retail) noted.

The Appointed Officer's reasons for refusal were that the proposal fails to comply with the principle policy, Policy B1 - Business and Industrial Land, in that there was no requirement of this development and there was sufficient provision and range of food and drink establishments within the surrounding area to serve the existing business parks. In addition, the development, due to its location could detract from the viability and vitality of the existing city centre, which was against the requirements of Policy NC4 - Sequential Approach and Impact, Policy NC5 - Out of Centre Proposals of the Aberdeen Local Development Plan 2017.

The appellant had submitted a statement in support of the application for Local Review, and Mr Evans referred directly to the reasons for refusal and the main points put forward were as follows:-

- Argued that the development complied with the relevant policies of the Local Development Plan;
- Contended that, whilst not specifically listed as an exception under policy NE2, the proposal would not undermine the aims of green belt designations;
- The site was well located relative to the facilities and services to be provided in future as part of the Countesswells development;
- Highlighted lack of landscape impact due to existing tree cover, and noted that Aberdeen City Council (ACC) could serve a Tree Protection Order to ensure long-term retention of those trees if considered essential; and
- Highlighted lack of objection from consultees.

In relation to the consultation submissions, Mr Evans made reference to the following:-

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- ACC - Waste Strategy Team – Standard response received, setting out requirements and raising no concerns;
- ACC - Flooding and Coastal Protection – No comments provided;
- ACC - Roads Development Management Team – No objection;
- Cults, Bielside & Milltimber Community Council – Neutral response. Did not object to the current application but were concerned that this proposal, if consented, may result in further incremental development of the area. (The land under the applicant's control was considered for five dwellinghouses in the recent 2022 Aberdeen Local Development Plan housing bid assessments under bid reference B0925 but was considered unsuitable for inclusion in the next local development plan).

Mr Evans advised that one representation had been received and was summarised as follows:-

- Proposal not consistent with the provisions of Policy NE2 (Greenbelt) in the Aberdeen Local Development Plan 2017;
- The proposed curtilage split would have an unacceptable effect on the character and local identity of the rural locale;
- Proposal would not be consistent with the provisions of Policy D2 (Landscape) in the Aberdeen Local Development Plan 2017; and
- Proposed curtilage-split would set a bad precedent for similar development in the semi-rural area.

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

Mr Evans highlighted the relevant policy considerations, making reference to the following:-

- the Aberdeen Local Development Plan 2017 - NE1 (Green Space Network); NE2 (Green Belt); and D1 – Quality Placemaking by Design;
- Supplementary Guidance: Sub-division and Redevelopment of Residential Curtilages.

Other relevant policies raised by Mr Evans included Policy D2 – Landscape; Policy NE5 – Trees and Woodlands; Policy NE6 – Flooding, Drainage and Water Quality; Policy R7 – Low and Zero Carbon Buildings, and Water Efficiency; Policy T2 – Managing the Transport Impact of Development; and Policy T3 – Sustainable and Active Travel.

Mr Evans also referred to other Supplementary Guidance including:-

- Flooding, Drainage and Water Quality;
- Green Space Network and Open Space;
- Transport and Accessibility; and
- Resources for New Development

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Mr Evans advised that in addition to the relevant policies from the local development plan, the following would be material considerations:-

Scottish Planning Policy - stated that the purpose of green belt designation was to:

- direct planned growth to the most appropriate locations and support regeneration;
- protect and enhance the quality, character, landscape setting and identity of towns and cities; and
- protect and give access to open space within and around towns and cities.

Mr Evans 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 Mr Evans, including the location to the nearby Academy and potential footfall, road safety concerns, the type of food to be sold and potential operating hours which could not be confirmed at this time.

The Chairperson and Councillors Henrickson and Macdonald each 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:-

The proposal fails to comply with the principle policy, Policy B1 - Business and Industrial Land, in that there is no requirement of this development and there is sufficient provision and range of food and drink establishments within the surrounding area to serve the existing business parks. In addition, the development, due to its location could detract from the viability and vitality of the existing city centre, which is against the requirements of Policy NC4 - Sequential Approach and Impact, Policy NC5 - Out of Centre Proposals of the Aberdeen Local Development Plan 2017.

16-18 FOUNTAINHALL ROAD - ERECTION OF TWO STOREY EXTENSION INCLUDING FIRST FLOOR TERRACE WITH CARPET BELOW; INSTALLATION OF REPLACEMENT GARAGE TO REAR; FORMATION OF NEW WINDOW OPENING TO REAR GABLE; INSTALLATION OF REPLACEMENT OF WINDOWS AT UPPER FLOOR; ALTERATIONS TO BOUNDARY WALL; AND LANDSCAPING WORKS IN FRONT CURTILAGE TO CREATE GARDEN AREA AND PARKING SPACES - 191169

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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 including first floor terrace with carpet below; formation of a new window opening in rear gable; installation of replacement of windows at upper floor; alterations to boundary wall and landscaping works in front cartilage to create garden area and parking spaces at 16-18 Fountainhall Road, Aberdeen, Planning Reference 191169/DPP.

The Chairperson advised that the LRB would again be addressed by Mr Gavin Evans and advised Members that although Mr Evans was employed by the planning authority he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

In relation to the application, the LRB had before it (1) a delegated report by Jamie Leadbeater, Planner; (2) the application dated 22 July 2019; (3) the decision notice dated 29 November 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 to the application; and (6) a letter of representation from the Council's Roads Team.

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

Mr Evans then described the site advising that the property in question was a detached 3-storey granite villa which contained two separate flats. The building fronted onto Fountainhall Road, with its side elevation onto Fountainhall Lane. The ground floor flat was accessed from the front, with a door in the side elevation providing access to stairs serving the upper flat. On the other side of the lane lies Blenheim House, a modern office building. There were three existing garage buildings within the plot, all of which were accessed via Fountainhall Lane. One of these directly adjoins the rear of the house, one abuts and sits parallel to the southern boundary to Fountainhall Lane, and the last sits in the north-eastern corner of the site. The area to the front of the property was laid to hardstanding and enclosed by hedging, whilst the rear garden was enclosed by granite rubble walling of circa 1.8m in height. Traditional granite lean-to outbuildings are present on the northern boundary.

Mr Evans intimated that the site was located in an area the Aberdeen Local Development Plan identified as an H1 Residential Area. It also was situated within the Albyn Place & Rubislaw Conservation Area.

Mr Evans outlined the appointed Officer's reasons for refusal, which included the following factors:-

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- The proposed extension would not suitably respect the scale, form and character of the existing historic building;
- Would therefore have a detrimental impact on the character and amenity of the Albyn Place/Rubislaw Conservation Area;
- As a result, the proposal would be at odds with Policy H1 (Residential Areas), Policy D1 (Quality Placemaking by Design) and Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017, as well as the relevant sections of Scottish Planning Policy, Historic Environment Policy for Scotland and Historic Environment Scotland Guidance on “Managing Change in the Historic Environment: Guidance Notes”;
- The scale of hard surface landscaping, including car parking, in the front curtilage was of detriment to the character of the Fountainhall Road streetscene – especially between Fountainhall Lane and Desswood Place - and therefore was of detriment to the character and amenity of the Albyn Place/Rubislaw Conservation Area, placing the proposal at odds with the aims of Policy D4 (Historic Environment) in the Aberdeen Local Development Plan 2017.

Mr Evans indicated that the applicant had sought the introduction to the proceedings of four letters of support from local ward members which had not been submitted prior to determination of the application by the appointed Planning Officer.

Lisa Christie, Legal Adviser provided information and advice relating to the review process, specifically making reference to Section 43B of the Town and County Planning (Scotland) Act 1997 (as amended) regarding the introduction of new matters before the Review Body.

The Local Review Body agreed unanimously that no exceptional circumstances existed as to why the four letters of support could not have been submitted in good time, therefore they did not accept these into the proceedings for consideration. Additional colour visualisations which had not been uploaded to the Council’s website by officers were included as part of the proceedings.

In relation to the appellants case, Mr Evans indicated that the appeal statement highlighted the following:-

- That the hardstanding to the front was authorised and therefore no longer a valid reason for refusal;
- Noted that the authorised officer’s report did not take issue with the replacement garage, noted that the proposal did not represent overdevelopment of the site, and concluded that residential amenity of neighbouring properties would not be jeopardised;
- Noted the lack of objection from any neighbours or statutory consultees and highlighted support from local members;
- Contended that the proposal complied with policy H1 of the Aberdeen Local Development Plan and the Council’s Householder Development Guide Supplementary Guidance and Historic Environment Scotland’s Managing Change publication relating to extensions;

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- Contended that the manner in which the rear extension wrapped around the corner of the historic rear offshoot was in keeping with other end-terrace properties in the street/surrounding area;
- Noted that the Conservation Area (CA) Character Appraisal and Management Plan did not identify detached outbuildings as making a significant contribution to the character of the CA, but this proposal would facilitate positive change in historic environment by giving new use to them; and
- Utilised materials appropriate to the building and its setting, resulting in a high quality contemporary extension that enhanced the CA and complied with Development Plan.

In relation to the consultee response, Mr Evans advised that the Council's Roads Team stated that an adequate level of car parking appeared to have been provided but the applicant had not demonstrated that the proposed car parking facilities meet the minimum technical car parking standards. He indicated that Queen's Cross & Harlaw Community did not provide any comments and there were no representations received from members of the public.

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

Mr Evans outlined the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017 - H1 (Residential Areas: Householder Development); policy D1 (Quality Placemaking by Design); Policy D4 (Historic Environment); Supplementary Guidance - Householder Development Guide; Windows Supplementary Guidance; Scottish Planning Policy – Conservation Areas; Historic Environment Scotland Managing Change Guidance: Extensions and also Windows;

In terms of material considerations, Mr Evans intimated that the following key points are of relevance:-

- Zoning: Policy H1; and
- Design: Policy D1.

Mr Easton responded to questions from members, specifically in relation to the extension wraparound to gable end, visibility, the proposed railings, the pitched roof garage and outbuildings.

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 and Councillor Henrickson indicated in turn that they were minded to overturn the officer's decision and to approve the application, as stated below.

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Councillor Macdonald supported the appointed officer's reasons 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:-

That the proposal would not constitute overdevelopment of the site, and would allow for the adaptation of the building in order that it may remain viable for modern family living. Members considered that the integrity of the main property would be retained and, whilst the wrap-around nature of the proposed extension was not ideal, this would not be apparent from outwith the site and on balance was found to be acceptable. The proposed extension was considered to be relatively sympathetic compared to some other more contrasting examples observed, and its scale was considered to be appropriate to that of the original building.

It was noted that the reinstatement of a landscaped front garden, replacement of existing UPVC windows with timber sash and case frames and introduction of traditional railings would represent improvements appropriate to their context, and that the existing garages to be removed are of little architectural or historic value. Furthermore, the retention and refurbishment of granite outbuildings was welcomed. On balance, it was considered that the proposal would not result in a detrimental impact on the character or appearance of the Albyn Place and Rubislaw Conservation Area, and that it would comply with policies H1 (Residential Areas), D1 (Quality Placemaking by Design) and D4 (Historic Environment) of the Aberdeen Local Development Plan, as well as the associated guidance contained in the 'Repair and Replacement of Windows and Doors' and 'Householder Development Guide' Supplementary Guidance publications. The lack of objection to the proposal was also noted.

CONDITIONS**1. Materials / Finishes**

That no development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved (for the avoidance of doubt, this shall include physical samples on a sample board) has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed - in the interests of visual amenity.

2. Car parking

That the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed,

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drained, laid-out and demarcated in accordance with drawing No. 1514-PL-130 REV B of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of cars ancillary to the development and use thereby granted approval - in the interests of public safety and the free flow of traffic.

3. Sash and Case Windows

That the window(s) hereby approved shall be constructed in full accordance with the detailed cross sections submitted and approved with the application (drawing ref. 1514-PL-150 REV A) and that the visible part of the outer frame of the front windows hereby approved shall not exceed 25 mm in width at the top and sides of the window opening with the remainder of the frame being concealed behind the masonry window check, unless the planning authority has given prior written approval for a variation-in order to preserve the character of the conservation area.

4. Construction method statement for rubble wall

That no development pursuant to this planning permission shall commence unless a detailed site-specific construction method statement demonstrating the detailing and construction of the new section of granite rubble boundary wall has been submitted to and approved in writing by the planning authority. The method statement must address include 1:20 drawings with a full specification - in order to ensure that this is appropriate to its context and preserves the character and appearance of the Albyn Place and Rubislaw Conservation Area.

5. Railing details

That no development pursuant to this planning permission shall commence unless full details of the metal railings on the approved elevation drawing 1514-PL-141-rev A have been submitted to and approved in writing by the planning authority. Submissions shall include details of materials, thickness, painted finish, means of fixing, as well as detail drawings showing full specification of any plinth, support uprights, balusters, coping rail, baluster heads and finials. Thereafter, all works shall be carried out in full accordance with the approved details - in order to preserve the character and appearance of the Albyn Place and Rubislaw Conservation Area.

SITE 2, INTOWN ROAD, BROADFOLD ROAD - ERECTION OF COFFEE SHOP WITH 'DRIVE-THRU' (SUI GENERIS) AND ASSOCIATED INFRASTRUCTURE AND LANDSCAPING WORKS - 191277

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 erection of a coffee shop with 'drive-thru' (sui generis) and

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associated infrastructure and landscaping works at Site 2, Intown Road, Broadfold Road, Aberdeen, Planning Reference number 191277.

The Chairperson advised that the LRB would again be addressed by Mr Gavin Evans and reminded Members that although Mr Evans was employed by the planning authority he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

In relation to the application, the LRB had before it (1) a delegated report by Jane Forbes, Planner; (2) the application dated 29 January 2020; (3) the decision notice dated 5 March 2020 (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 agent along with an accompanying statement; and (6) letters of representation from consultees.

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

Mr Evans then described the site advising that it was situated to the northern side of Broadfold Road, Bridge of Don, and was bounded on its eastern and northern sides by 'Intown Road'. The busy A956/Ellon Road lay circa 30m east, to the other side of a belt of trees and running parallel to Intown Road. The site extended to 0.28ha (2800sqm) and previously formed part of a larger site which was the premises of a car sales garage and repair/servicing workshop, prior to the site being cleared and separated into two units of roughly equal size, with the other side being developed as a hot-food restaurant and drive-through. To the west of the site was a neighbouring industrial building and associated yard area. Whilst to the north, on the other side of Intown Road, is the BOC gas depot. The site lay within an area zoned for principally business and industrial uses, where policy B1 would apply.

Mr Evans referred to the relevant planning history both on the entirety of the former car garage premises and on the adjoining 'half' formed through subdivision of the larger plot.

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

- Conflicted with policy B1 on the basis that it would not be ancillary to business/industrial use and would serve a wider catchment including passing vehicle traffic on Ellon Road (A956);
- No evidence provided to demonstrate compliance with NC4 and NC5, relating to the location of significant footfall generating developments;
- Recognised that the site was accessible by sustainable means, per T3, and satisfies policies D1, R6 & NE6 on technical matters; and

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- Noted that problems with traffic flow issues around the Ellon Road/Broadfold Road and Broadfold Road/Intown Road junctions persist, in spite of junction upgrades and introduction of waiting restrictions and before the consented drive through next door had begun operating – conflict with T2

Mr Evans highlighted the following key points from the appellant's review statement:-

- Recognised that the proposal does not strictly comply with policy B1;
- Contended that the proposal would serve a function ancillary to the business/industrial area and other material considerations outweigh that policy;
- Pointed to substantial amount of vacant space within the business/industrial area and slow take-up;
- Significant employment supply across the city (surplus);
- Visual benefit in removing gap site and utilising brownfield land for development;
- Creation of employment opportunities and economic benefit;
- Site was too small to be viable for business/industrial uses;
- Site marketed since 2012 with no interest for business use;
- Submissions demonstrated local road network had been improved to accommodate this development which the Council's Roads team consider acceptable;
- Use would support existing businesses and enhance appeal of remaining vacant business land;
- Contended that the use was not a destination, and would operate more like a local convenience facility;
- Pointed to similar approvals (adjoining site and others in B1 areas); and
- Contended that a review of alternative sites per policies NC4 and NC5 was not required.

In relation to the consultee response, Mr Evans advised that the Roads Management Team had no objection. They sought additional analysis of the development's impact on the operation of the Broadfold Road /Intown Road junction and were satisfied with the submission made. Earlier concerns regarding servicing/access arrangements had been addressed through agreement of a revised servicing strategy. Recommended that submission of a travel plan and details of staff cycle parking to be subject to conditions.

Bridge of Don Community Council objected to the proposal for the following reasons:-

- Exacerbation of existing traffic flow problems at Broadfold Road/Ellon Road and Broadfold Road/Intown Road junctions;
- Related safety concerns;
- Noted that works already undertaken in relation to the approved KFC on Intown Road had failed to address problems at these junctions, without that unit ever having been brought into use. It was therefore assumed that the problem would be exacerbated when that unit, and potentially the one before the LRB, was operational;
- Highlighted that the desk-based assessment undertaken by Roads officers did not reflect the real conditions observed at the junctions in question;

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- Highlighted inconsistency between applicants insistence that many users would travel on foot or by other means of sustainable transport and that vehicular traffic will be low with the inclusion of drive through facilities; and
- Warned that roads assessments also indicated that McDonalds would operate within junction capacity, but problems were observed immediately.

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

Mr Evans outlined in detail, the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017, namely Policy B1 (Business and Industrial Land), Policy NC4 (Sequential Approach and Impact); Policy NC5 (Out of Centre Proposals); Policy D1 (Quality Placemaking by Design); Policy T2 (Managing the Transport Impact of Development); Policy T3 (Sustainable and Active Travel); Policy R6 (Waste Management Requirements for New Development); Supplementary Guidance: Transport and Accessibility

In addition to the relevant policies from the local development plan, Mr Evans indicated that the following would be material considerations:-

- Scottish Development Plan - sustainable economic growth, using resources more efficiently and effectively; and
- Scottish Planning Policy – requirement to protect town centres.

The Local Review Body members asked questions of Mr Evans in regard to the application, specifically relating to the history of the site, traffic flow in terms of the photographs submitted by the community council.

The Chairperson and Councillors Henrickson and Macdonald 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:-

The proposed development fails to comply with the requirements of Policy B1 (Business and Industrial Land) of the Aberdeen City Local Development Plan in as far as it does not constitute a business or industrial use or a use that could be considered ancillary to other uses within the surrounding business park. By its very nature, the main focus of a drive-thru coffee shop is typically to serve and

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attract passing trade, and in particular, given the site location, this would be in the form of vehicular users of the A956 Ellon Road dual carriageway, from which the site is accessed. On this basis the proposed development would not deliver a use aimed primarily at meeting the needs of businesses and employees within the surrounding business and industrial area, but would clearly aim to serve a customer base from a far wider area.

The proposal also fails to address the requirements of Policy NC4 (Sequential Approach and Impact) and Policy NC5 (Out of Centre Proposals) of the Aberdeen City Local Development Plan. It has not been demonstrated that any consideration has been given to locating the proposed development at an alternative site within a designated centre, or that there is any proven deficiency in provision of the kind of development proposed. Moreover, rather than complementing a similar existing use within a designated centre as required under Policy NC5, it is considered that the proposal would likely be in direct competition and as such have the potential to affect the vitality/viability of such centres.

In recognising that the site is located adjacent to one of the main thoroughfares in/out of the city and that the proposed development would serve a customer base beyond that of the surrounding business and industrial area, it is acknowledged that this location allows for access by public transport, cyclists and pedestrians. As such it is deemed suitably compliant with Policy T3 (Sustainable and Active Travel) of the Aberdeen City Local Development Plan. The proposed development would, by its very nature, generate additional traffic. Recent upgrading of the Ellon Road/Broadfold Road/Intown Road junction layout does not appear to have addressed ongoing traffic flow problems at this road junction, as acknowledged by the applicant within the Transport Statement Addendum. The statement advises that the introduction of no waiting restrictions along the northern side of Broadfold Road would address such problems, and allow the Intown Road/Broadfold Road junction to operate within capacity. The traffic modelling undertaken assumed the parking restrictions had already been introduced. However, with the waiting restrictions now in place, and notwithstanding the comments by the Roads Development Management Team, it is apparent from on-site observations that the traffic flow problems around the Ellon Road/Broadfold Road/Intown Road junction remain. These traffic issues have been outlined in some detail by the Bridge of Don Community Council, whilst also experienced on a number of site visits undertaken by the case officer. Problems relating to traffic flow continue to occur, regardless of the junction upgrades and the introduction of waiting restrictions, and as such, cannot be overlooked in the Council's determination of the application. Taking all of the above into account, and bearing in mind that the recently consented fast-food drive-thru which immediately neighbours the application site is not yet operational, it is considered that the proposed development would likely exacerbate existing traffic congestion in the vicinity of the site and as such the proposal does not fully address the expectations of Policy T2 (Managing the Transport Impact of Development).

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It is acknowledged that the design, scale and finish of the proposed development may not raise specific concerns. Similarly matters including site drainage and waste management arrangements have been suitably addressed. However, whilst the requirements of Policies D1 (Quality Placemaking by Design), R6 (Waste Management Requirements for New Developments) and NE6 (Flooding, Drainage & Water Quality) may have been suitably addressed, compliance with such policy cannot be viewed in isolation nor outweigh the issue of principle in this instance. There are no material considerations identified, including evaluation under the Proposed Aberdeen Local Development Plan 2020, that would outweigh the above policy position or justify approval of the application.

- **COUNCILLOR MARIE BOULTON, Chairperson**

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