

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 10 February 2021. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton (item 2 and 3) and Councillor Stewart, the Depute Provost (item 1 only), Chairpersons; and Councillors Bell (items 2 and 3), Macdonald (item 1 only) and MacKenzie (all items).

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

### **ERECTION OF 1.5 STOREY DETACHED DOMESTIC GARAGE - FAIRHILL, 275 NORTH DEESIDE ROAD, MILLTIMBER, ABERDEEN - 200544**

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 application for the erection of a 1.5 storey detached domestic garage at 275 North Deeside Road, planning reference 200544.

Councillor Stewart as Chair, gave a brief outline of the business to be undertaken, advising that the LRB would be addressed by the Assistant Clerk, Mrs Lynsey McBain with regards to the procedure to be followed and also, thereafter, by Mr Gavin Evans who would be acting as the Planning Adviser to the Body in the 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 Mrs McBain, Assistant Clerk in regard to the procedure to be followed, at which time reference was made to the procedure note circulated with the papers calling the meeting and to more general aspects relating to the procedure.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) the application dated 8 May 2020; (3) the decision notice dated 17 November 2020; (4) links to the plans showing the proposal and planning policies referred to in the delegated report and (5) the Notice of Review submitted by the applicant.

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 application site was located on the south side of North Deeside Road, Milltimber, at its junction with Station Road East,

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and extends to an area of some 4130m<sup>2</sup>. The site comprised a 2 storey, detached dwelling house with single integral garage. The dwelling house is centrally located within the plot, with quite extensive garden ground to the front, side and rear, and was well screened by mature trees, all of which are protected by a Tree Preservation Order (TPO No 225). A drive provides access off North Deeside Road, splitting in two as it extends south within the site, with the eastern section delivering a route to the rear entrance to the dwelling and an area of hardstanding, whilst the western section provides a route to the front of the property with access to the existing integral garage, and a further area of hardstanding. To the south east of the dwelling and running parallel at a distance of some 8 metres from the eastern boundary of the site, lies an overgrown path which has been identified as an old driveway. The path extends from the hardstanding which lies to the east of the property to the southern boundary of the site.

Mr Evans outlined the proposal for Detailed Planning Permission (DPP) which was sought for the erection of a double garage to the east of the dwellinghouse and along the eastern boundary of the application site which was delineated by a 1.6 metre high boundary wall, beyond which lies Station Road East.

The proposed garage would measure 7.6 metres wide and 7.6 metres deep (57.8m<sup>2</sup>) with a ridge height of 6 metres and eaves level of 2.8 metres, delivering an internal floor area of just under 80m<sup>2</sup>. The garage would incorporate a 5m wide double garage door opening to the west elevation, a single door opening to the north elevation, 6 rooflights with 3 each to the east and west elevations, and fully glazed French doors with Juliet balcony design on the south elevation. Internal stairs would provide access to the upper floor which includes a shower room and was identified as a store on the submitted plans. The proposed garage would be finished in a smooth render with Fernhill stone detailing on the west elevation, wrapping around the gable ends, and a red tile roof to match the existing dwellinghouse. Along the eastern boundary, a lead flashing would be introduced to the top of the existing boundary wall where it would join with the eastern garage wall.

To facilitate the construction of the garage, it was proposed to fell 7 trees that lie within the footprint of the proposed garage. The Tree Survey Report also identifies a further 6 trees to be felled; 3 trees to the north of the proposed garage and 3 trees close to south boundary. All the trees identified for felling are Spruce trees.

Mr Evans indicated that the Appointed Officer's reasons for refusal stated in the decision notice made reference to the following:-

- inappropriate scale and massing which did not reflect the typical proportions of an ancillary building;
- the appearance would be overly dominant from the outside and failed to respect the context of the surrounding area, nor any established pattern of development, and would have a negative visual impact on its established character;

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- the proposal would result in the loss of 13 protected mature trees which form part of a continuous line of trees along the eastern boundary of the site (Tree Protection Order 225);
- whilst tree removal may be justified due to limited long-term potential, appropriate replanting should seek to ensure the existing landscape character and amenity is maintained and protected in the long term;
- the proposal was considered to be contrary to the requirements of Policies D1 (Quality Placemaking by Design), H1 (Residential Areas) and NE5 (Trees and Woodlands) of the ALDP, and associated Supplementary Guidance on Householder Development; and
- no material planning considerations identified that would justify approval.

Mr Evans outlined the key points from the appellant's Notice of Review advising that the applicant had noted the following:-

- the planning officer had accepted the principle of a garage and that the reasons for refusal related to scale/height;
- that the size of the site, was relative to the size of the proposed garage, and to the reductions made by the applicant from initial submission (circa 700mm reduction in height to ridge);
- highlighted that the existing outbuilding presents a gable to Station Road, whereas this proposal presents a sloping roof, with the boundary wall and tree canopies offering further screening;
- Notes that the necessary tree removals had been recommended by a qualified consultant due to their existing condition, rather than to enable development, and the applicant is committed to undertaking necessary replacement planting;
- Contends that any alternative location on the site would result in greater harm to healthy trees;
- Explains that the garage and upper floor accommodation was required for the storage of landscaping equipment, parking of family vehicles, and provision of a recreational space/home office at upper level;
- Notes that achieving minimum 2m headroom was essential to making that space useable, but that the proposed garage still retains the appearance of a single storey building;
- Makes reference to exchanges with the case officer regarding amendments to make the scheme acceptable; and
- Notes that Supplementary Guidance does allow for upper floor accommodation.

In terms of representations, Mr Evans advised that there were no consultee concerns or representations received.

Ms Evans advised that the applicant had expressed the view that no further procedures were required.

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The Chairperson and Councillor MacKenzie advised that they each had enough information before them and that the application should be determined without further procedure. Councillor Macdonald advised she would like a site visit to be held before determination. By majority, the Local Review Body concluded to proceed to determine the application without further procedure.

Mr Evans outlined in detail, the relevant policy considerations, making reference to the Aberdeen Local Development Plan 2017 advising that all policies were relevant to the determination of this application and all were used by the appointed officer in assessing the proposal, as follows:-

- H1 – Residential Areas;
- D1 – Quality Placemaking by Design;
- NE5 – Trees and Woodlands;
- Supplementary Guidance – Householder Development Guide;
- Supplementary Guidance – Householder Development Guide – outbuildings;

Mr Evans responded to questions from members relating to the upper level of the proposed garage, confirmation that there would a velux window, trees and the construction of the proposed garage.

**Members in turn, agreed by majority to uphold the decision of the appointed officer and refuse the application. Councillors Macdonald and MacKenzie voted to uphold the decision to refuse and the Chairperson voted to approve the application.**

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (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 garage development is deemed to be of an inappropriate scale and massing which does not reflect the typical proportions of an ancillary building. It would appear overly dominant from outwith the site, fails to respect the context of the surrounding area, nor any established pattern of development, and would have a negative visual impact on its established character. Furthermore, the proposal if approved would result in the loss of 13 protected mature trees which form part of a continuous line of trees along the eastern boundary of the site (TPO 225), and whilst their removal may be necessary due to their limited long-term potential, appropriate replanting should in the first instance seek to ensure the existing landscape character and amenity which they contribute towards is suitably maintained and protected in the long term, rather than enabling development. The proposal is therefore considered to be contrary to the requirements of Policies D1 (Quality Placemaking by Design), H1 (Residential Areas) and NE5 (Trees and Woodlands) of the Aberdeen City Local

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Development Plan, and does not address the expectations of the Council's Supplementary Guidance on Householder Development. There are no material planning considerations which would warrant approval of planning permission in this instance.

**At this juncture, Councillor Boulton replaced Councillor Stewart as Chairperson to consider the remaining two reviews and Councillor Bell replaced Councillor Macdonald.**

**FORMATION OF PITCHED ROOF TO AN EXISTING GARAGE TO FORM STORE AND SINGLE STOREY WORKSHOP EXTENSION TO REAR - 2 GLADSTONE PLACE ABERDEEN - 200557**

2. The LRB 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 formation of a pitched roof to an existing garage to form a store and single storey workshop at 2 Gladstone Place Aberdeen, planning reference 200557.

Councillor Boulton as Chair, advised that Mr Gavin Evans would again be acting as the Planning Adviser to the Body in the following case under consideration this day and reiterated 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.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) the application dated 12 May 2020; (3) the decision notice dated 2 October 2020; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) and the Notice of Review and supporting statement submitted by the applicant's agent.

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 also explained that no new matters had been raised however the submission with the Notice of Review included an alternative scheme and 3D images and the Appointed Officer did not use these when determining the application. Members heard from the Legal Adviser, who explained that no new matters should be used unless under exceptional circumstances. Members discussed this information and concluded that they would accept the 3D images as part of their consideration but not the alternative scheme.

Mr Evans then went on to explain that the applicant had indicated on the Notice of Review that no further procedure was required before determination.

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Mr Evans then described the site advising that the application related to a 2-storey terraced granite dwelling house of traditional build and design on the northwest of Gladstone Place within the Albyn and Rubislaw Conservation Area. The rear garden was fully enclosed with approximately 1.4m high boundary walls on each side and by an existing garage on its rear boundary. To the rear (north) was Queen's Lane South: a rear lane of a character typically found in the West End of Aberdeen, which was predominantly used as a rear access to buildings on Gladstone Place to the south and Queens Road to the north. There were a number of buildings that front directly onto the lane, including 2 Queen's Lane South which adjoins the application site. The majority of the buildings were domestic garages, together with a grouping of buildings near to the junction with Forest Avenue associated with Albyn School. An existing double garage, which extends across the full width of the feu, is located to the rear of the garden. The existing garage has a total height of c. 3.1m, depth of c. 5.8m and width of c. 8.5m. It had a very shallow pitched roof, incorporates a double width roller shutter door and is finished in roughcast render

Mr Evans indicated that Planning permission was sought for the construction of a pitched roof to the existing garage to form an attic/storage area above and the erection of a single storey workshop extension to rear. The altered garage would have an overall height of c. 6.1m (to the ridge of the roof) and would see a rise in the wall height to the eaves of c. 3.5m; an increase of approx. 0.4m on the front elevation and approx. 0.7m on the rear elevation. The single storey extension constructed to the rear (south east), would have a wall head height matching that of the proposed altered garage of c.3.5m and an overall height of c.4.4m to the top of the mono-pitched roof. The extension would project c.3.9m by a width of c.2.3m resulting in an overall footprint of c.9sqm. It would include a door and window in the rear and windows in the side (south west) elevations. Both the rear of the existing garage and the extension would be finished in cedar composite cladding, the garage gable would be rendered to match existing. The roof would be finished in slates. Finally, velux windows would be introduced in the front and rear roof slopes of the garage, and in the side facing elevation of the extension.

The Appointed Officer's reasons for refusal stated in the decision notice made reference to the following:-

- There was an excessive and unsympathetic scale and massing in relation to the surrounding context;
- It would adversely affect the pattern of back lane development on the south side of Queen's Lane South and the historic character and appearance of the surrounding Albyn Place and Rubislaw Conservation Area
- The proposed materials (Cedral composite cladding and uPVC) were not traditional or sympathetic materials and would not be appropriate in the curtilage of a historic building in a conservation area,
- It conflicted with principles of Scottish Planning Policy; Historic Environment Policy for Scotland; Policies H1 - Residential Areas, D1 - Quality Placemaking by Design and D4 - Historic Environment of the Aberdeen Local Development Plan; the Council's Householder Development Guide SG;

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- Also highlights conflict with corresponding policies in Proposed Aberdeen Local Development Plan; and
- Concludes that there were no material planning considerations which would warrant approval.

Mr Evans highlighted the following key points from the appellant's Notice of Review:-

- Contends that the proposal is modest, sympathetic to context, and consistent with the character of the Conservation Area (CA);
- Notes that garages of a larger scale have been approved elsewhere within the CA;
- Delineation between feus is maintained and the proposal would 'read' as a domestic garage;
- Proposal complies with 'Householder Development Guide' Supplementary Guidance in terms of outbuildings (subordinate scale, no dormer windows, internal access, appropriate scale). Highlights that the garage would not be highly visible and the roof form is an improvement on the existing flat-roofed form, which does not result in conflict with the CA Character Appraisal;
- Highlights use of non-traditional materials in recent planning approvals, including Cedral (fibre cement) cladding elsewhere in the rear lane. Notes also that these materials are to garden side only;
- States that height is necessary to accommodate existing garage door and mechanism, and highlights suggested compromises which were rejected by officers, but which the applicant would accept if members were minded to approve on that basis;
- Highlights that neighbours had welcomed the proposals and there was no objection to the application; and
- Notes that reasons for refusal refer only to the roof/height and not to the formation of the workshop extension on the garden side, which is understood to be acceptable to planning service.

In relation to consultees and letters of representation, there were none.

The Chairperson and Councillors Bell and MacKenzie advised in turn that they each had enough information before them and agreed 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 advising that all policies were relevant to the determination of this application and all were used by the appointed officer in assessing the proposal, as follows:-

- H1 – Residential Areas;
- D1 – Quality Placemaking by Design;
- D4: Historic Environment;
- Supplementary Guidance: Householder Development Guide;
- Supplementary Guidance: Householder Development Guide – Outbuildings
- Supplementary Guidance – Transport and Accessibility; and

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- Scottish Planning Policy.

Mr Evans also made reference to the Albyn Place and Rubislaw Conservation Area Character Appraisal.

Mr Evans responded to questions from members.

### **Members agreed unanimously to reverse the decision of the appointed officer and to 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 (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application.

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

Members of the Local Review Body (LRB) noted the variety in scale, style and form of buildings along Queen's Lane South and concluded that the proposed outbuilding would not be incongruous in the local context, nor would it detract from the character or appearance of the Albyn Place and Rubislaw Conservation Area. Members considered that the proposal would not constitute overdevelopment of the plot and that any increase in height would not be excessive. The LRB concluded that the proposal would be accord with policies D1 (Quality Placemaking by Design) and D4 (Built Heritage) of the Aberdeen Local Development Plan (ALDP), subject to the use of appropriate materials and suitable low-profile rooflights, details of which may be secured and agreed via the use of appropriately worded planning conditions.

It was further considered that the proposal would comply with the relevant 'Householder Development Guide' and 'Transport and Accessibility' Supplementary Guidance, and would also comply with policy H1 (Residential Areas) of the ALDP.

## **CONDITIONS**

### **1. Materials/Finishes**

That no development pursuant to the planning permission hereby granted shall commence unless details of external finishes and materials (including slate sample, render sample and details of guttering) have first been submitted to and approved in writing by the planning authority. Thereafter, development shall take place in full accordance with the details so agreed.

Notwithstanding the detail shown on the approved plans, the garden elevations of the garage/workshop shall be finished using the same render approved for use on the north-western elevation, to Queen's Lane South. For the avoidance of doubt, the Local Review Body did not support the use of cedar cladding on the approved building.



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Reason: In order to ensure that the proposal is appropriate to its historic context, consistent with policy D4 (Historic Environment) of the Aberdeen Local Development Plan.

**2. Low-profile rooflights**

That no development pursuant to the planning permission hereby granted shall commence unless details of low-profile rooflights appropriate for use within a Conservation Area have first been submitted to and agreed in writing by the planning authority.

Thereafter development shall take place in full accordance with the details so agreed.

Reason: In order to ensure that the proposal is appropriate to its historic context, consistent with policy D4 (Historic Environment) of the Aberdeen Local Development Plan.

**ERECTION OF SINGLE STOREY EXTENSION TO SIDE AND FORMATION OF CARPORT AND GARDEN ROOM/GYM - THE HIGHFIELD, BORROWSTONE ROAD, ABERDEEN - 200265**

3. The LRB 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 single storey extension to the side and formation of carport and garden room/gym, the Highfield, Borrowstone Road Aberdeen, planning reference number 220265.

Councillor Boulton as Chair, advised that Mr Gavin Evans would again be acting as the Planning Adviser to the Body in the following case under consideration this day and reiterated 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.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) the application dated 25 February 2020; (3) the decision notice dated 6 October 2020; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) and the Notice of Review and supporting statement submitted by the applicant's agent.

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

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the decision of the appointed officer. Mr Evans explained that new information had been provided by the applicant, namely information from Transport Scotland and an updated drawing. These were not considered by the original Planning Officer when a decision was made. Members agreed unanimously to accept the new information as this information would not have been available at the time of the decision by the appointed officer.

Mr Evans explained that the applicant had indicated on the Notice of Review that no further procedure was required before determining the application. Members agreed unanimously to proceed without further procedure.

Mr Evans then described the site advising that it was a detached bungalow with detached double garage set in the east corner of a substantial residential curtilage extending to c.6200m<sup>2</sup>. Both the dwelling and garage were of a modern design and finished in render and Fyfestone with a red tiled roof. The dwelling had been previously extended with a conservatory to the south elevation.

In terms of the description of the application, Mr Evans advised that the application consisted of two distinct elements:

1. A single storey extension to the north elevation projecting c.5.6m, extending across the full width of the dwelling (c.8.9m), providing an additional bedroom, walk-in wardrobes, and two bathrooms. The west elevation would contain a hipped roof bay window with additional smaller windows in the west, north and east elevation. Proposed finishes would match the existing dwelling and include bullnosed Fyfestone and roughcast for the walls, and concrete roof tiles for the roof;
2. A garden room/ gym and double width carport attached to the existing double garage. The car port would have a width of c.6m and a depth of c.7.2m, with the garden room/gym measuring c.6.1m by c.7.2m. The garden room/gym would have a pitched roof with gables to the front and rear, matching the roof profile of the existing double garage. Proposed finishes would include vertical timber linings for the wall and concrete tiles to match the existing roof. Full height windows would be integrated in the south and west elevations.

The Appointed Officer's reasons for refusal stated in the decision notice made reference to the following:-

The proposal was considered to have a significant impact on the root protection area of a total of five mature beech trees located just outside the application site boundary, which could have a significant detrimental impact on their health. Furthermore, it would result in a further significant encroachment of development within the Zone of Influence of a total of seven mature beech trees, which would have a significant future impact on these trees due to both the potential requirement for extensive works and the proximity of large trees to the dwelling and outbuildings. This was further aggravated by the fact that the trees fall outwith the ownership of the applicant, as this would impose an additional burden on a third party. As such, the proposal is considered contrary to policy NE5 (Trees and Woodlands) of the 2017 Aberdeen Local Development Plan,

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policy NE5 (Trees and Woodlands) of the Proposed Local Development Plan and Supplementary Guidance on Trees and Woodlands. There were no other material considerations that would warrant approval of the application.

Mr Evans highlighted the following key points from the appellant's Notice of Review:-

- Highlighted that the refusal is based on conflict with one policy only (NE5: Trees and Woodlands). The reason for refusal does not specifically say what was unacceptable about the proposal in terms of the information which was provided to assess and mitigate for Root Protection Areas (RPA) and Zone of Influence (Zol);
- Contends that there was no conflict with ALDP Policy NE5 or the associated Supplementary Guidance as impacts on the RPA's and the Zol had been adequately addressed and mitigations proposed;
- The house, garage and part of the garden were already located within the RPA and Zol of some of the trees, these trees had not been adversely affected by this and the proposed extensions would not have a considerable or significant impact on the trees;
- There was no alternative location to locate the required extensions on the ground floor;
- The layout, siting and design of the proposal was otherwise acceptable as is the development in all other respects;
- Transport Scotland had advised that the trees were not a safety concern and there was no need for their removal as a result of the proposed development. Transport Scotland would be responsible for monitoring, management and maintenance of the trees as necessary to maintain their health; and
- ACC's inflexible approach to development which was in the RPA or Zol of trees was inconsistent with the British Standard BS5837:2012 and insufficient regard had been given to the proposed mitigation.

In relation to representations, no comments were received from statutory consultees and no objections were received from interested parties.

The Chairperson and Councillors Bell and MacKenzie advised in turn that they each had enough information before them and agreed 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 Policy NE1 – Green Space Network; NE2 – Green Belt; NE5 – Trees and Woodland; NE8 – Natural Heritage; D1 – Quality Placemaking by Design; and Householder Development Guide Supplementary Guidance as well as the Trees and Woodland Supplementary Guidance.

Mr Evans responded to questions from members relating to the various trees.

Members agreed unanimously to defer determination on the item in order to allow an arboricultural specialist to be in attendance to assist members with their queries on tree

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matters, noting that the said officer would be acting in the same impartial capacity as the planning adviser.

The Clerk advised that a new date would be set in due course.

- **COUNCILLORS JENNIFER STEWART AND MARIE BOULTON,**  
**Chairpersons**