

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 16 June 2021. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson (for item 2 only); Councillor Jennifer Stewart, the Depute Provost, Chairperson (for item 1 only) and Councillors Henrickson and Reynolds (for both items).

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

11 MARCHBURN ROAD ABERDEEN - 201620

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 single storey extension to the front at 11 Marchburn Road Aberdeen, 201620/DPP.

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 Ms Lucy Greene 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 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 original application form; (3) the decision notice dated 18 March 2021; (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 Ms Greene 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.

Ms Greene then described the site advising that the application site comprised a 1½ storey detached pink granite dwelling dating from the early twentieth century and its associated front and rear curtilage in a residential area in Bielside. The application site was bounded by an access path and the Deeside Way to the south; 9 Marchbank Road

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to the east; 13 Marchbank Road to the west; and Marchbank Road to the north. The dwelling had a south facing principal elevation orientated towards the Deeside Way and the original dwelling was cross gabled in form and had a gable on the principal elevation. The principal elevation had an existing single storey porch / conservatory to its front (south) and single storey extensions to its rear (north) and side (east).

In terms of the proposal, Ms Greene explained that planning permission was sought for the erection of a single storey extension to the principal elevation of the dwelling. The extension would be contemporary in its design and would have an asymmetric gable roof with a maximum height of c.3.9m and eaves heights of c.2.6m and c.3.1m. It would project c.4.7m forward of the south facing gable on the principal elevation, would be c.5.5m in width to project c.1.7m forward of the west elevation. Fenestration would include a full height window and small slot window in the south elevation; fully glazed sliding doors to the east elevation; and a total of three rooflights of varying sizes in the west roofslope. It was also noted that it would be finished in dark grey aluminium fasciae, Siberian larch cladding to the front, dark grey profiled metal sheeting to the west elevation and roof; and dark grey aluminium windows and doors.

Ms Greene indicated that the Appointed Officer's reasons for refusal stated in the decision notice was as follows:-

- the proposed extension would not be architecturally compatible in its design, scale and form with the original building by way of its substantial projection forward of the principal elevation of the dwelling;
- it would partially cover the primary gable on the principal elevation of the dwelling; and would not have roof pitches which would correspond with those of the principal elevation. As such, the proposed extension was considered to considerably detract from, and would have a dominating impact on the character and appearance of the original dwelling, in conflict with policies D1 and H1 of the ALDP and the Supplementary Guidance 'Householder Development Guide'.
- the proposed extension would detract from the established character and the pattern of development in the surrounding area;
- the proposed extension would conflict with policies D1 – Quality Placemaking by Design and H1 – Residential Areas of the adopted Aberdeen Local Development Plan 2017; Policy D1 – Quality Placemaking and H1 – Residential Areas of the proposed Aberdeen Local Development Plan 2020; and the Supplementary Guidance: 'The Householder Development Guide'.

Ms Greene outlined the key points from the appellant's Notice of Review making reference to the following:-

- the application site was not within a conservation area •
- the property had dual frontage, and the relationship to Deeside Way and public visibility was not taken into account.
- policies do not require extensions to replicate the host dwelling
- Policy D1 requires high quality design and materials, whilst the existing extensions are low quality, with different eaves levels, roof pitches, window proportions and finishes, none complement each other.

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- The property is largely hidden from public view from the Deeside Way
- An existing extension partially covers the south elevation, as does the proposed.
- An assertion that the design would detract from dwelling was subjective
- A variety of styles and graduated building lines exist
- A precedent would not be created, as each proposal is assessed on its own merits and noted that the proposal was barely visible.

In terms of consultee responses, Ms Greene advised that there was no response from the Cults, Bieldside and Milltimber Community Council or any representations received from interested parties.

Ms Greene advised that the applicant had expressed that before a determination be made, that further written submissions be received on specific matters.

At this point, the LRB considered whether they had sufficient information before them to proceed to determine the review. The Chairperson and Councillors Henrickson and Reynolds all indicated in turn that they each had enough information before them and therefore agreed that the review under consideration should be determined without further procedure.

Ms Greene outlined the relevant policy considerations, making reference to H1: Residential Areas; D1 – Quality Placemaking by Design and Supplementary Guidance: Householder Development Guide as well as the Supplementary Guidance: Householder Development Guide on Front Extensions.

Ms Greene explained that in determining the appeal, members should also take into consideration any material considerations they feel were relevant to the application that would point to either overturning the original decision or dismissing the review. In addition to the relevant policies from the development plan, the Scottish Planning Policy would be material considerations.

Mr Greene responded to various questions from members.

The Chairperson and Councillors Henrickson and Reynolds each advised in turn, and agreed unanimously to reverse the appointed officer's earlier decision and to grant the planning permission 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:-

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The proposed extension would not be visible from public viewpoints, does not constitute overdevelopment in terms of its size or site coverage and lies within a relatively large garden and is thereby acceptable in terms of its impact on the character and amenity of the area. In respect of these factors, it complies with Policy H1 - Residential Areas, Policy D1 - Quality Placemaking by Design and the Supplementary Guidance: Householder Development Guide. The siting of the extension within a large garden where it would not be visible to any significant degree from the Deeside Way is a material consideration outweighing the guidance on front extensions within the Householder Guide SG.

CONDITIONS

1. That no external finishing material shall be used on site other than in accordance with samples or detailed specification that have been submitted to, and agreed in writing with the planning authority.

Reason: In the interests of visual amenity.

27 BIRKHALL PLACE ABERDEEN - 201317

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 timber decking with external steps to the rear – retrospectively, at 27 Birkhall Place Aberdeen, 201317/DPP.

The Chairperson advised that Ms Lucy Greene 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, 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.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 28 October 2020; (3) the decision notice dated 28 January 2021; (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; and (6) comments received from representations.

The LRB was then addressed by Ms Greene 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.

Ms Greene then described the site advising that the site is the residential curtilage of a two storey mid-terraced dwellinghouse on the southern side of Birkhall Place in Mastrick. The rear curtilage comprised a split-level decking and artificial grass area with

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an outbuilding (not requiring planning permission in itself as it constitutes Permitted Development) at the far end. Decking nearest to the rear of the dwellinghouse is set c. 1.6m above ground level whilst the largest decking area comprising the artificial grass is set 435mm above ground level, the outbuilding is set at ground level. Side garden boundaries are treated by c 1.6m high timber fencing set at ground level, although the highest part of the decking nearest the house includes additional 930mm high fencing above its 1.6m deck level. In terms of the wider site context, the application site and wider terrace it sits within, is located perpendicular to the rear of properties on Upper Mastrick Way to the west and Cairnwell Drive to the east. Subsequently, the rear gardens of three residential streets (including Birkhall Place) converge, and views from the application property and rear garden area look out over a number of properties on different streets to varying degrees.

In terms of the proposed application, Ms Greene explained that retrospective planning consent was sought for the erection of raised timber decking in the rear garden area with associated steps and 0.93m high fencing above deck level along both side boundaries. The decking sits c. 1.6m above ground level and at c.5.8m, spans nearly the full width of the rear garden area, leaving a gap of c.0.6m to the boundary with the neighbouring property at No. 25 Birkhall Place, projecting c.3.5m out from the rear elevation of the dwellinghouse, and covering a total area of c.20m².

Ms Greene indicated that the Appointed Officer's reasons for refusal stated in the decision notice was as follows:-

- the proposed raised decking had far-ranging adverse impacts on the private amenity of both immediate adjoining properties (no. 25 and 29 Birkhall Place) and other neighbouring properties (no. 31 Birkhall Place, 74 Upper Mastrick Way and properties 165 and 167 Cairnwell Drive) in their garden areas within the immediate surrounding area, due to the height the decking sits relative to the height of neighbours garden boundaries.
- the height and proximity of the decking to neighbours windows had a very imposing/oppressive impact on no. 25 Birkhall Place, both within the neighbour's rear garden space and also within their habitable living room and does result in a significant loss of privacy/increased overlooking to this property.
- the proposal was considered to be in conflict with the requirements of Policy H1 (Residential Areas) and relevant provisions of Policy D1 (Quality Placemaking by Design) and both the relevant "general principles" and guidance set out in Section 3.1.10 of their attendant supplementary guidance the Householder Development in the Aberdeen Local Development Plan 2017; and
- the proposal would also be in conflict with policies D1, D2 and H1 in the Proposed Aberdeen Local Development Plan. In the absence of any other overriding material considerations, the proposal is considered worthy of refusal.

Ms Greene outlined the key points from the appellant's Notice of Review as follows:-

- the decking in the rear garden was upgraded as a result of the existing timber becoming damaged and rotting;

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- the heights of the decking have not been altered from previous/existing decking levels;
- there was a number of examples in the local area/neighbouring properties, in which similar works have been completed;
- both neighbouring properties to 27 Birkhall Place have decking at the same level. These works were carried out to be in keeping with the levels of both neighbours' decking.

In terms of consultee responses, Ms Greene noted that three responses had been received in relation to the proposed application, one in support and two objections. No consultee responses were received.

Ms Greene advised that the applicant had expressed the view that an inspection of the property to which the review relates should be undertaken before determination.

At this point, the LRB considered whether they had sufficient information before them to proceed to determine the review. The Chairperson and Councillors Henrickson and Reynolds all indicated in turn that they each had enough information before them and therefore agreed that the review under consideration should be determined without further procedure.

Ms Greene outlined the relevant policy considerations, making reference to H1: Residential Areas; D1 – Quality Placemaking by Design and Supplementary Guidance: Householder Development Guide.

Ms Greene explained that in determining the appeal, members should also take into consideration any material considerations they feel were relevant to the application that would point to either overturning the original decision or dismissing the review. In addition to the relevant policies from the development plan, the Scottish Planning Policy would be material considerations.

Mr Greene responded to various questions from members.

The Chairperson and Councillors Henrickson and Reynolds each advised in turn, and agreed by majority to reverse the appointed officer's earlier decision and to grant the planning permission conditionally. Councillor Henrickson advised that he felt that planning permission be refused, with the Chairperson and Councillor Reynolds opting to overturn the decision and approve the planning 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.

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

The Local Review Body considered, by a majority of 2 to 1, that the appointed officer's decision should be reversed and planning permission granted subject to a condition requiring the introduction of soft landscaping and an opaque screen along edge of the elevated decking closest to the boundary with the neighbouring property at 25 Birkhall Place. Subject to implementation of planting and an opaque screen, which reduces scope for overlooking but still permits light to penetrate into the neighbouring plot, members were satisfied that the proposal would be acceptable on balance and would comply with the relevant policies of the Aberdeen Local Development Plan. Members noted the existence of decking at 23 Birkhall Place and the absence of any objection from that property, as well as the steps taken by the applicants to position the decking off the boundary with number 25 and thereby reduce impact on the closest ground floor window. Members considered that the design of the proposal would not be incompatible with its context, and whilst a degree of overlooking was identified, members did not consider that this would warrant refusal subject to the additional measures to be secured by conditions.

CONDITIONS**1. Screening and Landscaping**

Within 3 months from the date of this grant of planning permission, soft landscaping to the eastern boundary and an obscured screen which addresses overlooking into number 25 Birkhall Parade but allows for light to penetrate into the neighbouring garden shall be installed in accordance with details which have first been submitted to and agreed in writing by the planning authority. Both landscaping and screening shall be retained thereafter unless the approved decking has been removed.

Reason: To reduce overlooking into the adjoining garden whilst retaining appropriate levels of daylight to the downstairs window of number 25 Birkhall Parade.

- **COUNCILLOR MARIE BOULTON, Chairperson.**