

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 2 August 2021. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton (Item 1 only) and Councillor Stewart, the Depute Provost (Item 2 only), Chairpersons; and Councillors Donnelly and Reynolds.

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

41 REGENT QUAY (FIRST FLOOR) - CHANGE OF USE FROM CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER SERVICES) TO CLASS 10 (PUBLIC WORSHIP) - REF 210464

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 change of use from Class 2 (Financial, Professional and other services) to Class 10 (Public Worship) at 41 Regent Quay (First Floor), Aberdeen, Planning Reference number 210464/DPP.

Councillor Boulton as Chair for this review, 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 the Appointed Officer, Aberdeen City Council; (2) an application dated 1 April 2021; (3) the decision notice dated 27 May 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; and (6) consultee responses from the Roads and Environmental Health Teams, Aberdeen City Council.

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 to the north of Regent Quay, to the south of the city centre, within close proximity to Aberdeen Harbour. It was accessed via a small pend from Regent Quay, the two-storey attic and basement building was of a granite construction with a pitched and slated roof. The application related to the first-floor accommodation only, which currently fell under a Class 2 (Financial, professional and other services) use. The premises benefited from four parking spaces located to the rear (north). The site was located within a 'Mixed-Use Area' as identified in the Aberdeen Local Development Plan proposals map.

Mr Evans outlined the proposal for Detailed Planning Permission (DPP) which was sought for a change of use to the first floor of the premises from Class 2 (Financial, professional and other services) to Class 10 (Public worship), for use as a church. No physical alterations were proposed as part of the application.

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

- The proposed Class 10 use was considered to be suitably compliant with the relevant policies of the Aberdeen Local Development Plan, namely Policy H2 (Mixed Use Areas), Policy T2 (Managing the Transport Impact of Development), Policy T3 (Sustainable and Accessible Transport), Policy T5 (Noise) and the associated Supplementary Guidance documents 'Transport and Accessibility' and 'Noise'. The proposal would not conflict with surrounding land uses in the locality, with no significant detrimental impact in respect of on-street parking over and above that associated with the existing use. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that there are no material planning considerations that would warrant refusal of the application.

CONDITIONS

Noise/amplified music¹. That no amplified music, public announcement equipment or noise emitted from the use of microphones/speakers or other forms of audible entertainment including singing and acoustic performances shall take place at the premises hereby approved between the hours of 10:00pm and 10:00am. Reason – in order to ensure that the proposed use does not result in excessive noise to the detriment of residential amenity.

Mr Evans outlined the key points from the appellant's Notice of Review advising that the applicant indicated that on Sundays, they had five sessions for worshippers, occurring at different times from 6am to 3pm, which helped to control capacity and limit noise and that music and song were essential for their worship. They explained that they were done moderately and at levels that do not encroach, for example these activities were contained within the premise of their London branch, such that, no nuisance was created. More so, the proposed property in Aberdeen was at some distance from residential homes and activities would not have an impact.

In terms of consultee responses, Mr Evans advised that the Roads Development Management Team indicated that the property was well served in terms of sustainable

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transport options and suggested that associated parking provision was acceptable given the location of the development, despite suspecting a likely shortfall as per Council requirements. Furthermore, the Environmental Health Team advised that suitable music noise controls should be applied to protect the amenity of neighbouring residential property.

He advised that there was no response from the Castlehill and Pittodrie Community Council and there were no letters of representation received.

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

The Chairperson and Councillors Donnelly and Reynolds 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 as follows:-

- H2: Mixed Use Areas;
- T2: Managing the Transport Impact of Development;
- T3: Sustainable and Active Travel;
- T5: Noise;
- Supplementary Guidance: Transport and Accessibility; and
- Supplementary Guidance: Noise.

Other material considerations were the Aberdeen City and Shire Strategic Development Plan (2020) and the Proposed Aberdeen Local Development Plan (2020).

Members of the Local Review Body unanimously reversed the appointed officer's earlier decision. Planning permission was therefore granted.

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 unanimously decided to reverse the appointed officer's decision, noting that whilst a degree of potential conflict had been identified with neighbouring residential properties, the local context is one where there are various existing noise sources already, such that there is a higher level of background noise and less prospect of adversely affecting residential amenity. Members also stated that the size of the premises and its internal floor plan would limit capacity and by extension limit noise levels from singing or other activities related to its use.

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The LRB noted that such conditions would not apply to many longstanding places of worship across the city and considered that the application of the condition in question is disproportionate to the potential noise conflict. Members also noted that Environmental Health legislation provides further safeguards in the event of noise nuisance, separate from the planning system. On balance, members felt that the proposal would comply with the relevant provisions of the Development Plan, including policy H2 (Mixed Use Areas) without any requirement for further restriction by way of a condition. Members also noted that this proposal would result in a new use for a currently vacant office building.

CONDITIONS

None.

At this juncture, Councillor Boulton left the meeting and Councillor Stewart chaired the following review.

NORTH DEESIDE ROAD, PITFODELS - ERECTION OF NEW 17.5M HIGH 5G TELECOMMUNICATION MAST AND INSTALLATION OF ASSOCIATED METER CABINETS WITH ASSOCIATED WORKS - REF 201501/DPP

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 erection of a new 17.5m high 5G telecommunication mast and installation of associated meter cabinets with associated works at North Deeside Road, Pitfodels, Aberdeen, Planning Reference number 201501/DPP.

Councillor Stewart 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) an application dated 1 December 2020; (3) the decision notice dated 12 March 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; and (6) a letter of representation and a consultee response from the Roads Team, Aberdeen City Council.

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 in a small area within the pedestrian footway on the southern side of North Deeside Road in Pitfodells. It was located within the Pitfodells Conservation Area. The site of the proposed works was immediately to the north of a large residential curtilage (West Haven). The dwelling within that curtilage was set back some 65m from North Deeside Road and sits at a much lower level, with hedging and mature trees in the intervening front garden area. The boundary to North Deeside Road was enclosed by a stone wall of roughly 1.5m in height, with hedging within the garden protruding a further 0.3m or so above the wall when seen from the public road. This section of North Deeside Road featured 10m high streetlight poles which flank the southern footway of North Deeside Road, either side of the application site, with the existing trees in the curtilage of West Haven providing the backdrop for the proposed area of works. A denser area of mature woodland at the front of the International School sat on the northern side of North Deeside Road, opposite the site area.

Mr Evans outlined the proposal for Detailed Planning Permission (DPP) which was sought for the erection of a new 17.5m high 5G telecommunication masts with associated cabinet. The proposed mast and cabinet would be set 1.75m apart. The cabinets would have a height of 2m, width of 2.95m and depth of 600mm. The equipment would be installed in the southern portion of the footway, close to the boundary wall enclosing West Haven, with cabinets opening outwards into the footway when in use.

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

- (1) The proposed telecommunications development was not acceptable in principle as its siting, scale and appearance would have an undue adverse impact on the special high amenity and rural character and appearance of the Pitfodells Conservation Area and therefore the proposal would fail to accord with policies C12 (Telecommunications Infrastructure), D1 (Quality Placemaking by Design) and D4 (Historic Environment) in the Aberdeen Local Development Plan 2017; and
- (2) Planning Authority considers that insufficient justification had been provided by the applicant to satisfactorily demonstrate that the proposed telecommunications infrastructure could not feasibly be sited in a less visually sensitive or more discreet location whilst also delivering 5G connectivity to the desired coverage area.

Mr Evans outlined the key points from the appellant's Notice of Review as follows:-

- The proposal was in accordance with the Scottish National Planning Framework 3 (NPF);
- The proposal accorded with Planning Advice Note 62 (PAN62) Radio Telecommunications;
- The proposal accorded with the requirements of the Aberdeen Local Development Plan (Adopted 2017): Policy D1 – Quality Placemaking by Design and Policy D4 – Historic Environment and Policy C12 – Telecommunications Infrastructure;

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- The proposal accorded with the requirements of the Proposed Aberdeen Local Development Plan (2020): Policy CI2 – Telecommunications Infrastructure, Policy D1 – Quality Placemaking, Policy D2 - Amenity and Policy D6 – Historic Environment:
- The applicant was also confident that “the proposed telecommunications monopole and ancillary infrastructure would not, by virtue of its siting and appearance, be detrimental to the amenity of the Pitfodels Conservation Area or the area’s character or appearance, and that suitable and robust evidence had been provided to demonstrate the need for this location”; and
- Highlighted that it was for the planning authority to conduct a balancing exercise between any harm or perceived harm resulting from the proposal in terms of visual impact against the public benefits related to maintaining and improving a high-speed mobile telecoms network.

In terms of consultee responses, Mr Evans advised that the Roads Development Management Team indicated that they had no objection, noting that more than 1.5m of the footway would remain free from obstruction, allowing for pedestrian passing, and also that siting of the mast would not affect visibility for nearby road junctions.

No response had been received from Braeside and Mannofield Community Council.

In terms of representations, one was received within representation period and made the following points:-

- The mast would adversely impact on visibility from the driveway serving the dwellinghouse known as West Haven on North Deeside Road;
- Siting the mast on the pavement would increase the safety risk to passing pedestrians; and
- Height of the mast would harm the setting/character of the Pitfodels Conservation Area.

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

The Chairperson and Councillors Donnelly and Reynolds 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 as follows:-

- NE2 (Green Belt);
- Policy CI2 – Telecommunications Infrastructure;
- Policy D1 - Quality Placemaking by Design;
- Policy D2 – Landscape; and
- Policy D4 – Historic Environment.

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Other material considerations were the Scottish Planning Policy (SPP) (2014); the Planning Advice Note 62: Radio Telecommunications; the Aberdeen City and Shire Strategic Development Plan (2020) (SDP); and the Proposed Aberdeen Local Development Plan (2020).

Mr Evans responded to questions from members, specifically regarding the search undertaken for alternative suitable sites, mast sharing and the location of the nearest buildings from the proposed mast.

Members of the Local Review Body by a majority, reversed the appointed officer's earlier decision. Planning permission was therefore granted conditionally.

The Chairperson upheld the officers decision to refuse the application for the reasons stated within the earlier decision notice, however Councillors Donnelly and Reynolds in turn, upheld the appellant's review, both indicating that the proposal would not be excessive or result in significant adverse impact on visual amenity.

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 determined, by a majority of 2 to 1, that despite the sensitive nature of the site's location within Pitfodels Conservation Area, the proposal would not be excessive or result in significant adverse impact on visual amenity. Members considered that a compelling justification had been made for the siting of the proposed ground-based mast in this location and noted that this proposal would allow for continuity in network coverage in the context of a 'notice to quit' having been served in relation to an existing site. For these reasons, the LRB considered that the Appointed Officer's decision should be reversed in this instance.

CONDITION**1. Colour/Finish**

No development pursuant to this grant of planning permission shall be undertaken until such time as full details of the colouring of both the telecoms monopole and the accompanying equipment cabinets have been submitted to and agreed in writing by the planning authority. Thereafter works should not be carried out other than in accordance with the details so agreed.

Reason: In the interests of ensuring as unobtrusive a presence as possible and thereby minimising impact on visual amenity.

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