

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 17 November 2021. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Bell and Henrickson.

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

9 KILDRUMMY ROAD - ERECTION OF TWO STOREY SIDE EXTENSION WITH INTEGRAL GARAGE AND ALTERATIONS TO BOUNDARY WALL AND REAR EXTENSION ROOF - 210477/DPP

1. The Local Review Body (LRB) of Aberdeen City Council met on this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the application for the erection of a two-storey side extension with integral garage and alterations to boundary wall and rear extension roof at 9 Kildrummy Road, Aberdeen, Planning Reference number 210477/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 the Appointed Officer, Aberdeen City Council; (2) an application dated 2 April 2021; (3) the decision notice dated 16 June 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 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 it was a residential curtilage, located on a corner plot at the junction of Kildrummy Road and Fintray Road. The site comprised a one-and-a-half storey, semi-detached dwellinghouse with associated front and rear

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gardens. There was currently a lean-to garage abutting the southern gable of the dwelling (onto Fintray Road). To the rear of the garage was a single storey extension, measuring 5.2m long by 2.2m wide. These two single-storey elements of the property were set slightly back from the boundary wall (circa 1.3m).

Mr Evans made reference to the history of the site and outlined the proposal for Detailed Planning Permission (DPP) which was sought for the erection of a 1.5 storey side extension, with integrated garage and utility/storage space at ground floor level and living accommodation at first floor level by virtue of dormer windows at front and rear. The extension would measure approximately 4.3m wide, taking it right up to the boundary with Fintray Road, and would project c.9.3m (matching the depth of the existing house and lining up with its front and rear walls). The proposed extension was of a pitched roof design to match the roof of the existing dwelling, with the roof of the existing single-storey rear extension altered to tie in with this new section of roof over the new extension. The extension incorporated dormer windows on both the front and rear slopes of the roof. These would be formed through the extension of existing dormer windows, as could be seen from the elevations. These extended dormer windows would be set in slightly from the roof edge (0.7m at front and 0.9m to rear). Finishing materials would include white roughcast render, brown concrete roof tiles and white uPVC fascia, soffits and rainwater goods. A section of the boundary wall to Fintray Road would be removed to accommodate the extension, with the wall then rebuilt to tie in to the front and rear walls of the extension. This aspect of the works could be undertaken as 'permitted development', therefore was not within the scope of the appointed officer's assessment.

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

- the proposed extension, due to its massing and location - extending entirely to the southern boundary of the site where it meets the public footpath – would create an oppressive, dominating structure, as a result of site specific characteristics, which would be to the detriment of the character and visual amenity of the surrounding area;
- The proposal had not been designed with due consideration for its context, having an unacceptable impact on the visual amenity of the area and thus, fails to accord with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan; its associated Supplementary Guidance: 'Householder Development Guide'; and Policies D1, D2 and H1 of the Proposed Aberdeen Local Development Plan; and
- there are no material planning considerations that would warrant approval of permission in this instance.

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

- highlighted the positive elements of the proposal identified in the officer's report – including: size and design of the extension; developed extent of the plot;

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design of dormer windows/roof extension; and amenity/privacy/light impact on neighbours;

- concluded that corner plot location and relationship with wider context are the basis for refusal. Suggested that the scale of its impact is over-stated within the officer assessment;
- advised that amendments suggested by the case officer would significantly compromise the additional accommodation and queried whether this would be materially different in terms of its relationship with the street;
- provided a detailed review of the proposal against the relevant Aberdeen Local Development Plan policies;
- provided various examples of existing properties which have been extended to directly abut the public footway/road, as well as traditional properties constructed in this manner; and
- included a statement of the applicants' personal circumstances and motivations behind the proposal.

In terms of consultee responses, Mr Evans advised that there was no response from Craigiebuckler and Seafield 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.

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 Bell 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.

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

Mr Evans 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 Evans responded to a question from Councillor Bell, specifically regarding a similar extension to a property in the area.

The Chairperson and Councillors Bell and Henrickson each advised in turn and by a majority of two to one, agreed to reverse the appointed officer's earlier decision and to grant the planning permission unconditionally.

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The Chairperson and Councillor Bell indicated that the proposal would not be overwhelming, nor would it be detrimental to the character and visual amenity of the surrounding area or have an impact on the neighbours and would therefore accord with the relevant policies of the Aberdeen Local Development Plan, as well as the relevant sections of the 'Householder Development Guide' Supplementary Guidance.

Councillor Henrickson agreed with the appointed officer's decision 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:-

To reverse the appointed officer's decision and grant planning permission unconditionally. The LRB noted that properties in the surrounding area have been subject to various different forms of extension and alteration, such that there is no strong sense of uniformity, and highlighted that the appointed officer's report noted a number of areas where the proposal is in compliance with the relevant 'Householder Development Guide' Supplementary Guidance. Members considered that the extension's siting along the boundary with Fintray Road did not warrant refusal, and also highlighted that a revised scheme suggested by the case officer would have a similar degree of impact.

Taking these matters into account, the LRB felt that the proposal would accord with policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan, as well as the relevant sections of the 'Householder Development Guide' Supplementary Guidance.

13 TOLLOHILL PLACE - ERECTION OF SHED AND PERGOLA TO REAR (RETROSPECTIVE) - 210913/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 shed and pergola to the rear (retrospective) of 13 Tollohill Place, Aberdeen, Planning Reference number 210913/DPP.

The Chairperson 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.

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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 22 June 2021; (3) the decision notice dated 24 August 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'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 then described the site advising that it was a triangular residential plot, located on the corner of Tollohill Place and Tollohill Crescent. The site comprised a two storey, semi-detached dwellinghouse and its associated front and rear curtilage. The dwelling fronted Tollohill Place and adjoined 12 Tollohill Crescent to the south-west (RHS when looking from street). There were lockup garages over the rear boundary. The dwelling sat elevated above street level and was served by a driveway and a single garage along the north-east boundary. In addition, the property had previously been extended to the rear by way of a single storey extension which projected c.3.9m from the rear wall of the original property. Beyond this extension, a partially screened pergola had been erected and at the far end of the plot a shed had been constructed. Both the pergola and shed had been erected without planning permission.

Mr Evans outlined the planning history and proposal for Detailed Planning Permission which was sought retrospectively for the erection of the existing pergola and shed. The pergola projected c.4.2m from the rear of the single storey extension, c.5.6m wide and c.2.6m high at highest point. It was constructed of timber with a perspex roof and canvas curtains to each side. The shed was located at the far end of the rear garden and had been constructed to fit with the shape of the site. It measured a maximum 6.6m in width and 6.9m in length, extending along both boundaries, and had an overall height of 2.5m. It was constructed of timber with canvas curtains to the front and had a flat felt roof, which incorporated two flues. The officer's report highlighted that submitted photos indicated that the shed was utilised as some form of home bar. It was noted that if this was for domestic use, it would likely not involve a material change of use in planning terms.

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

- overdevelopment of the site compared the pergola to an extension and highlighted that the footprint of the original dwelling would more than double;
- Pergola and shed, when combined with existing development, resulted in 71.8% of the rear curtilage being covered by development, and was therefore in conflict with the Householder Development Guide Supplementary Guidance;
- resulted in a disproportionately small area of private, undeveloped garden ground, which was incongruous with the established pattern of development and the character of the surrounding area;

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- Pergola and shed resulted in development projecting along almost the entirety of the south western boundary shared with 12 Tollohill Crescent, with resultant adverse impact on outlook and amenity;
- conflicted with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan (ALDP); associated Householder Development Supplementary Guidance and equivalent policies of the proposed ALDP; and
- No material planning considerations that warrant approval in this instance.

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

- argued that the pergola and shed individually would fall under permitted development rights, if not for the 'developed' area at the rear of the house exceeding 50%;
- The pergola was built to facilitate a member of the household who was suffering from mental health problems and found it impossible to leave the house. It was built to afford privacy, while still being able to access the rear garden and get outside for fresh air and to help alleviate the mental health issues suffered;
- Disputes the appointed officer's inclusion of a garage to the side of the property within a calculation of the developed area to the rear. Put forward alternative calculations showing that the proportion of developed rear curtilage was less than stated, and that the developed area of the entire plot would be less than 50%;
- Both structures were free standing and did not have permanent foundations and were demountable;
- The pergola structure was open on 3 sides, the shed being open at the front. The rear 'garden' area was entirely slabbed, similar to several other properties in the surrounding area;
- contended that the impact to number 12 Tollohill Crescent would not be significant due to the orientation of the gardens (south east facing) these structures did not block out any light to the adjoining property, with the pergola being open on 3 sides, with a Perspex roof which allowed daylight to pass through. Neither structure was considered to result in adverse impact on privacy, daylight or general amenity of any neighbouring properties;
- the development was entirely to the rear of the property, and could not be seen from the street side; and
- the barbecue was not used any more frequently than any of the other neighbouring properties and any smoke was directed through a flue at high level, resulting in less impact on neighbours than usual domestic use of a barbecue.

The LRB heard from Ms Lisa Christie, Legal Adviser who made reference to the duties under Section 149 of the Equality Act 2010.

In terms of consultee responses, Mr Evans advised that the Council's Environmental Health Team had no objection but had requested that an advisory be attached to the grant of consent regarding the material burned.

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No response had been received from Kincorth and Leggart Community Council and there were no letters of representation submitted.

Mr Evans advised that the applicant had expressed the view that an inspection of the property to which the review relates should be undertaken.

At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review. The LRB (1) requested that evidence be obtained from the applicant by way of a GP letter in relation to the extent of the issues experienced by the member of the household; (2) sought confirmation as to how the planning authority took account of the public sector equality duty under the Equality Act 2010 in determining the application; and (3) that a site visit be held prior to determining the review.

The review under consideration was therefore adjourned for further information to be provided and for a site visit to be conducted in due course.

- **COUNCILLOR MARIE BOULTON, Chairperson.**