

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 23 February 2022. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Allan and Mason.

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

BORROWSTONE, BORROWSTONE ROAD - ALTERATIONS AND EXTENSION TO DWEILLINGHOUSE - 210930/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 alterations and extension to the dwellinghouse at Borrowstone, Borrowstone Road, Aberdeen, Planning Reference number 210930/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 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 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 24 June 2021; (3) the decision notice dated 11 November 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 it was a traditional granite house with curtilage mainly to the south and east. It lay to the south of the farm buildings and to the

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east of Borrowstone Bothy that had been extended and converted for residential use. The frontage of the building faced south. Other buildings in the grouping include a collection of agricultural buildings of a mix of sizes and materials, mostly modern. The site was accessed from a private track off a minor road which joins the AWPR roundabout on the A944.

Ms Greene indicated that there was no relevant planning history and advised that Detailed Planning Permission (DPP) was sought for the contemporary style single storey extension to the front and side of the house and would wrap around the corner of the building. The extension would be glazed to the south, with black horizontal and vertical timber cladding. The roof would be a single ply membrane with aluminium parapet flashing and aluminium clad timber windows. Other works including to dormers, do not require planning permission as they were permitted development. Three trees would be removed due to ash die back. The extension would not be within the root protection area of remaining trees, whilst it would be slightly within the Zone of Influence, approximately the falling area of the mature tree.

She indicated that the appointed officer's reasons for refusal stated in the decision notice was as follows:-

- that it was detrimental to the character and appearance of the traditional farmhouse;
- that it was therefore detrimental to the character of the green belt and the contribution of the traditional building to that character; and
- that it conflicted with policies NE2 (Green Belt), D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan 2017 and Householder Development Guide Supplementary Guidance.

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

- there was no adverse impact on the green belt with the existing house being screened by mature trees from public view, impact on the wider landscape setting of the city and impact on the boundary of the existing community;
- the proposed extension was smaller than the recently constructed extension to the bothy building to the west. It was consistent with the established pattern of development;
- the extension was subservient and of high quality design, complying with policy D1 (Quality Placemaking by Design) and policy NE2 (Green Belt);
- there was no impact on natural heritage including trees and protected species;
- it was consistent with the Council's Technical Advice Note on Materials;
- it was not possible to extend the house to the north and the extension to the south would deliver solar gain;
- the proposed extension was smaller than the size of the extension that could be built under permitted development rights; and
- there was reference to various points within the Report of Handling, confirming compliance with elements of policies and Supplementary Guidance.

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In terms of consultee responses, Ms Greene advised that no comments were received from Kingswells Community Council and there were no representations submitted.

Ms Greene advised that the applicant had expressed the view that an inspection of the site location 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.

Councillor Allan advised that she had enough information before her and that the review under consideration should be determined without any further procedure. Councillor Mason and the Chairperson in turn requested that a site visit be undertaken prior to determining the review, therefore the LRB agreed by a majority of 2 to 1 that a site visit be held prior to determining the review.

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

6 PARKHILL AVENUE - ERECTION OF FENCE TO FRONT (RETROSPECTIVE) - 211481/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 fence to the front (retrospective) of 6 Parkhill Avenue, Aberdeen, Planning Reference number 211481/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 13 October 2021; (3) the decision notice dated 23 November 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) letters of representation submitted by neighbouring properties.

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.

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Ms Greene then described the site advising that it was a semi detached house with front and rear curtilage. The principal elevation faced south, away from Parkhill Avenue with front gardens facing onto an area of open space and the Far Burn running immediately adjacent to the garden boundary.

Ms Greene advised that there was no relevant planning history and the proposal for Detailed Planning Permission which was sought retrospectively for the erection of the approximately 1.8m high timber fence around the front garden. Supporting posts were on the outer side, with panels facing into the garden.

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

- that the height and scale of the fence was wholly out of character with the characteristics of the surrounding area;
- that it had a detrimental impact on visual amenity; and
- it was contrary to Policy H1 (Residential Areas), Policy D1 (Quality Placemaking by Design) in addition to the Council's Supplementary Guidance 'Householder Development Guide'.

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

- that there were 5 other properties with similar fences on Parkhill Avenue – photos were submitted of fences at numbers 26, 36, 38, 40 and 44. Precedent was already set;
- that in view of the above, the fence was not out of character with the area;
- that No. 6 was around 100m from a public footpath, with a variety of buildings and uses beyond, such as industrial buildings, petrol station and hotel car park, as well as a busy road. All of these were less visually appealing than a timber fence;
- that the fence complied with the Householder Supplementary Guidance in terms of assessment of lighting in relation to residential amenity;
- that the fence protected a young child from straying towards the Far Burn, which flows faster and deeper during heavy rain;
- that the previous low fence left the garden exposed to public view; and
- that the fence cuts down noise from the busy Riverview Drive, increasing enjoyment of the garden.

In terms of consultee responses, Ms Greene advised that no response had been received from Dyce and Stoneywood Community Council.

There were two letters of representation submitted from number 4 and number 2 Parkhill Avenue, including additional comments made by number 4 to the LRB. These related to the following:-

- the loss of a view from neighbouring property windows;
- the loss of light to neighbouring garden ground;
- the fence enclosed a front garden, was unsightly and spoiled the look of the area; and

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- the proposal, if approved, would set a precedent.

Ms Greene advised that the applicant had expressed the view that the review may proceed on the basis of the information provided.

The Chairperson and Councillors Allan and Mason all indicated in turn that they each now had enough information before them and therefore agreed that the review under consideration should be determined without any further procedure.

In terms of relevant policy considerations, Ms Greene referred to the following in the Aberdeen Local Development Plan 2017:-

- H1: Residential Areas;
- D1: Quality Placemaking by Design; and
- Supplementary Guidance – Householder Development Guide.

Ms Greene responded to questions from members in relation to the permitted height of a fence to the rear and frontage of properties.

The Chairperson and Councillors Allan and Mason 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 conditionally.

The Chairperson and Councillor Allan indicated that they believed that in this instance and due to the layout of the property, the fence was not contrary to Policy H1 as outlined in the Appointed Officer's reasons for refusal and if stained green would not have a detrimental impact on visual amenity. They both were supportive for it to remain, particularly as it provided protection for a young child from straying towards the Far Burn.

Councillor Mason 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:-

In this particular instance, due to the layout of the residential plot and outside areas, it is considered that the fence would provide privacy to the occupiers and security to children, as private garden area for the house. It is considered that the green staining of the fence would mitigate the visual impact of the structure when viewed from the open space and street to the south. The fence would thereby accord with Policy H1 – Residential Areas, in the adopted Aberdeen Local Development Plan 2017 and the Householder Development Guide Supplementary Guidance.

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CONDITION

That the fence shall be painted in green stain within three calendar months of the date of this permission and thereafter shall only remain in place if stained green.

Reason: In the interests of visual amenity.

UNIT 2A BRIDGE OF DON INDUSTRIAL ESTATE, WOODSIDE ROAD - CHANGE OF USE TO CLASS 1 (SHOPS) - 211161/DPP

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 change of use to Class 1 (Shops) at Unit 2a Bridge Of Don Industrial Estate, Woodside Road, Aberdeen, Planning Reference number 211161/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 10 August 2021; (3) the decision notice dated 10 December 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) a consultee response submitted by the Roads Development Management Team.

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 it was located to the northern most of a pair of attached industrial units within an industrial estate off Woodside Road, to the north of the parkway. The unit contained two levels internally and was finished typically in metal cladding and brick.

Ms Greene advised that there was no relevant planning history and the proposal for Detailed Planning Permission was sought for change of use of the building to class one retail. The submitted plans showed that the public entrance would be on the north east elevation with car, motorcycle and bike parking in the area adjacent. The application indicated that the gross floorspace within the building would be 488m².

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

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- that Class 1 (shops) was not an acceptable use within Policy B1 (Business and Industrial Land);
- the proposal was not within a designated centre as outlined within Policy NC4 (Sequential Approach and the Hierarchy of Centres Supplementary Guidance); and
- the proposal did not meet the criteria within Policy NC5 (Out of Centre Proposals).

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

- the proposal accorded with the Development Plan as it contributed to the vision, aims and objectives of the Strategic Development Plan, by meeting the diverse needs of different types and sizes of businesses in line with the aspirations of the ALDP policies on business and industrial land, and complied with policies NC4, NC5, D1, T2, T3 and R6 (Waste Management Requirements);
- the proposal would bring a net economic benefit to the area;
- the unit had been marketed for a considerable length of time; and
- the building was a good fit for the proposed occupier as it offered parking for bulky goods, flexible space and was accessible by all modes of transport.

In terms of consultee responses, Ms Greene advised that no response had been received from Bridge of Don Community Council and that the Roads Development Management Team had no objection to the proposal.

There were no letters of representation submitted.

Ms Greene advised that the applicant had expressed the view that the review may proceed on the basis of the information provided.

The Chairperson and Councillors Allan and Mason all indicated in turn that they each now had enough information before them and therefore agreed that the review under consideration should be determined without any further procedure.

In terms of relevant policy considerations, Ms Greene referred to the following in the Aberdeen Local Development Plan 2017:-

- Policy B1 – Business and Industrial Land;
- Policy NC4 – Sequential Approach and Impact;
- Policy NC5 – Out of Centre Proposals; and
- Supplementary Guidance on Hierarchy of Centres.

Ms Greene responded to questions from members in relation to the change of use class and in particular, what retail could the premises be used for in the future, parking spaces and the sequential test.

Members agreed unanimously to reverse the decision of the appointed officer and to approve the application conditionally.

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Members indicated that the proposal in the instance could be controlled by a condition to be included so that the premises would be limited to non-food goods, and more specifically children's goods/furniture with a restriction on the retail floor area for other goods.

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:-

In these particular circumstances where the proposal involves the sale of non-food bulky nursery equipment and furniture, and this is controlled by condition, the change of use is justified of this relatively small scale unit within this area zoned under Policy B1 – Business and Industry in the adopted Local Development Plan 2017, within Bridge of Don and outwith a retail centre (as designated within the Hierarchy of Centres Supplementary Guidance).

CONDITIONS

That the retail use hereby permitted shall be limited to the sale of non-food bulky goods of the following types: nursery equipment and furniture, including prams and pushchairs. The use of more than 20% of the net retail floor area for the sale of goods other than those specified shall not be permitted without the written approval of the planning authority.

Reason: In order to limit the impact of the development on retail centres.

- **COUNCILLOR MARIE BOULTON, Chairperson**