

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

ABERDEEN, 24 May 2023. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Henrickson, Chairperson; and Councillors Alphonse, Blake, Boulton and McRae.

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

### **WALLACE WHITTLE LTD, 166 GREAT WESTERN ROAD, ABERDEEN - 221357**

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 for the refusal of an application for Detailed Planning Permission for the change of use from offices to form residential flat including installation of replacement windows and doors; installation of roof lights and formation of patio doors from window opening with associated works, at Wallace Whittle Ltd, 166 Great Western Road Aberdeen, planning reference 221357.

Councillor Henrickson as Chair for the meeting, 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 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. He 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 and decision letter by the Appointed Officer, Aberdeen City Council; (2) an application dated 10 November 2022, (3) links to the plans showing the proposal and planning policies referred to in the delegated report; (4) the Notice of Review submitted by the agent; and (5) letters of representation from the Aberdeen City Council's Roads Development Management Team, and Environmental Health as well as one neutral letter from a member of the public.

Ms Greene then described the site and outlined the appellant's proposal. The application site consisted of a traditional two storey granite building with a later single storey flat roof rear extension with additional accommodation in the roof space and an

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enclosed rear garden. The ground floor was covered in cladding panels and incorporates modern, full height windows. The building was located on the corner of Chattan Place and Great Western Road. The ground floor and extension were currently occupied by offices, with residential flats on the upper floors, which were accessed through a door in the side elevation reached through a gate and narrow lane along the side of the building. The application related to the single storey rear extension part of the building (166A Great Western Road). The site fell within the Great Western Road Conservation Area and the Chattan Place neighbourhood centre.

In terms of the proposal, Ms Greene explained that it was for a change of use of the single storey flat roof extension from offices (class 4) to a two-bed flat (sui generis) with associated alterations, including installation of new windows and French doors in the rear elevation, new front door and roof lights. The existing pedestrian access and rear garden used by the existing upper floor flat (168 Great Western Road) would be shared by the proposed flat. Additional rooflights would be added to the flat roof, and new windows and French doors installed on the northwest elevation, facing the shared garden area and a new front door.

Ms Greene indicated that the appointed officer's reasons for refusal outlined in the report of handling was as follows:-

The proposed change of use of the existing single storey rear office extension to a residential flat was considered not to provide an acceptable level of residential amenity due to its single-aspect nature resulting in a limited outlook from the building, and limited levels of direct sunlight receipt into the dwelling. It was considered that the proposed conversion would not respond well to the site context due to its position to the rear of the main building and public street, resulting in a property that would not have a public face to the street and would be accessed through a narrow lane to the side of the existing building.

This would be contrary to the established pattern of development, which consisted of buildings fronting onto Great Western Road and neighbouring roads with a private face to the rear. As such, the proposal was considered not to sufficiently address the six qualities of successful placemaking, or the six qualities of successful places. The proposal was therefore considered to be contrary to the requirements of Policy D1 (Quality Placemaking by Design) of the 2017 Aberdeen Local Development Plan; Policies D1 (Quality Placemaking) and D2 (Amenity) of the 2020 Proposed Aberdeen Local Development Plan; and Policy 14 (Design, Quality and Place) of the draft NPF4.

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

- Difference in assessment between pre-application and application, with same issues considered and nothing having changed on site;
- Outdoor space would be 164m<sup>2</sup>, with large windows providing outlook onto it;
- The existing A/C units for office would be removed which would be a benefit for the neighbour;
- In terms of light, sunlight may be limited at some times of year, whilst daylight would be sufficient.
- Trees would be managed and trimmed; and

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- Lane access already used for another flat at no. 168

In terms of Consultations, Ms Greene advised that the Council's Roads Team had no objection; that Environmental Health had no objection and there was one letter of response received which was neutral.

Ms Greene advised that the applicant had expressed the view that no further procedure should take place before determination.

The Chairperson and Councillors Alphonse, Blake, Boulton and McRae all indicated in turn that they each 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 proposed National Planning Framework 4 and the Aberdeen Local Development Plan 2017, as well as the Proposed Aberdeen Local Development Plan 2023.

Ms Greene responded to questions from members, which included the proposed materials to be used, and the acceptable level of daylight.

**Members each advised in turn and unanimously agreed to overturn the appointed officers previous decision. Planning permission was therefore granted 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:-**

The proposal would result in the re-use of the existing extension and the occupiers would have direct access to the garden. Although there was some concern about the level of amenity as the extension was single aspect, this would be mitigated by the open plan layout and installation of the rooflights; on balance, there would be an acceptable level of amenity for future occupants. There was a direct access from the street, albeit the front door was set back. The site was located close to facilities, providing a '20 minute neighbourhood' for the occupants and would be accessible by public transport.

There would be no significant adverse impact on the Conservation Area, with the character being preserved.

The proposals would therefore comply with National Planning Framework Policies: Policy 7 (Historic Assets and Places), Policy 12 (Zero Waste), Policy 13 (Sustainable Transport), Policy 14 (Design, Quality and Place), Policy 15 (Local Living and 20 Minute

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Neighbourhoods) and Policy 16 (Quality Homes)

The proposal would comply with policies in the adopted Aberdeen Local Development Plan 2017, including:

Policy D1 (Quality Placemaking by Design), Policy D4 (Historic Environment), Policy T2 (Managing the Transport Impact of Development), Policy T3 (Sustainable and Active Travel), Policy R6 (Waste Management Requirements for New Development) and Policy NC6 (Town, District, Neighbourhood & Commercial Centres)

In terms of the Proposed Aberdeen Local Development Plan, as modified, there were tensions with Policy D2 'Amenity', whilst the proposal complies with the following:

Policy D1 (Quality Placemaking), Policy D2 (Amenity), Policy D6 (Historic Environment), Policy D8 (Windows and Doors), Policy R5 (Waste Management Requirements in New Developments), Policy VC8 (Town, District, Neighbourhood and Commercial Centres), Policy T2 (Sustainable Transport) and Policy T3 (Parking).

### **CONDITION**

This permission is granted subject to the following conditions.

#### **(01) DURATION OF PERMISSION**

The development to which this notice relates must be begun not later than the expiration of 3 years beginning with the date of this notice. If development has not begun at the expiration of the 3-year period, the planning permission lapses.

Reason - in accordance with section 58 (duration of planning permission) of the 1997 act.

### **56 HILTON PLACE ABERDEEN - 221331**

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 Detailed Planning Permission for the formation of a dormer to the rear at 56 Hilton Place Aberdeen, planning reference 221331.

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. He 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 and decision letter by the Appointed Officer, Aberdeen City Council; (2) an application dated 4 November 2022, (3) links to the plans showing the proposal and planning policies referred to in the delegated report; and (4) the Notice of Review submitted by the agent.

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Ms Greene then described the site and outlined the appellant's proposal. The application site comprised a first floor residential flat within a two-storey granite-built terraced building of two flats in a residential area. The dwelling had a southwest facing principal elevation that fronts Hilton Place; adjoined 58-60 Hilton Place to the northwest and 52-54 Hilton Place to the southeast. The rear curtilage of the property bounds Hilton Lane to the northeast (rear). The rear roofslope of the property had not been extended and excluding the dwellings of a different building type in the terrace to the southeast of the site, the vast majority of the rear roofslopes along the terrace had also not been extended, except for three existing substantial dormers, one of which was located on 58-60 Hilton Place to the northwest.

In terms of the proposal, Ms Greene explained Planning permission was sought for the erection of a horizontally proportioned dormer roof extension on the rear of the dwelling. The dormer would rise a total of c.2.2m above the roof and would be c.5.9m in width. It would be set c.500mm to the southeast of the northwest tabling; set c.400mm in from the southeast tabling; c.70mm below the roof ridge; and it would be set c.590mm back from the wallhead. It would have a c.560mm high apron, white uPVC framed windows and its solid walls would be finished in slate.

Ms Greene indicated that the appointed officer's reasons for refusal outlined in the report of handling was as follows:-

The proposal was in direct conflict with the Supplementary Guidance: The Householder Development Guide, the proposed dormer would be of scale, massing and design, whereby it would dominate and overwhelm the original roof. Relative to its overall size and projection, it would not be located a reasonable distance below the roof ridge, it would have an excessively large apron and it would have an insufficient proportion of glazing. The proposal would therefore result in the loss of the original slated roof form of the rear roofslope to the detriment of the architectural integrity of the original building, the terrace and the character and visual amenity of the surrounding area.

Notwithstanding every planning application is assessed on its own merits, given these reasons, it was likely that the grant of planning permission for this dormer could set an unwelcome precedent for similarly scaled dormers on this terrace, which would be to the significant detriment of the character and visual amenity of the surrounding area. The proposal would therefore conflict with the aims of Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of National Planning Framework 4; Policies H1 (Residential Areas) and D1 (Quality Placemaking by Design) of the Aberdeen Local Development Plan 2017; the Supplementary Guidance: The Householder Development Guide; and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Proposed Aberdeen Local Development Plan 2020.

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

- The proposal would allow staircase from the kitchen to be building regulation compliant;

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- There were other rear dormers on neighbouring properties;
- The dormer would not dominate the roofscape;
- The dormer complied with the supplementary guidance on distance from tabling;
- It was proposed to be 70mm down from the ridge, which was reasonable;
- The windows were located at ends of the dormer as per supplementary guidance;
- The glazing was larger proportion than solid; and
- The Householder Supplementary Guidance stated that guidelines at the rear of older properties may be relaxed.

In terms of Consultations, Ms Greene advised that no responses were received.

Ms Greene advised that the applicant had expressed the view that no further procedure should take place before determination.

The Chairperson and Councillors Alphonse, Blake, Boulton and McRae all indicated in turn that they each 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 proposed National Planning Framework 4 and the Aberdeen Local Development Plan 2017, as well as the Proposed Aberdeen Local Development Plan 2023.

Ms Greene responded to questions from members.

**Members each advised in turn and by majority agreed to overturn the appointed officers previous decision. Planning permission was therefore granted unconditionally. The Chairperson voted to refuse the application and Councillors Alphonse, Blake, Boulton and McRae voted to approve the application unconditionally.**

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 dormer would not be overly visible within the surrounding area being on the rear elevation, there were already existing dormers on adjacent and nearby properties. There were long gardens to the rear and the proposed dormer would not affect the privacy of neighbours, nor result in a detrimental visual impact within the surrounding area. The dormer would help provide suitable accommodation for today's requirements, also helping ensure the continued use of buildings. The dormer would comply with the dormer guidance in Supplementary Guidance: Householder Guidance

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including being sufficient distance from tabling to either side and taking into account that guidance may be relaxed on rear elevations.

The application therefore complied with:

National Planning Framework 4 policy 12 (Zero Waste), Adopted Aberdeen Local Development Plan 2017: Policy H1 (Residential Areas); and Proposed Aberdeen Local Development Plan 2023: Policy H1 (Residential Areas).

**13 POWIS CRESCENT ABERDEEN - 221096**

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 Detailed Planning Permission for the erection of a fence and gate to the front (retrospective) at 13 Powis Crescent Aberdeen, planning reference 221096.

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. He 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 and decision letter by the Appointed Officer, Aberdeen City Council; (2) an application dated 5 September 2022, (3) links to the plans showing the proposal and planning policies referred to in the delegated report; (4) the Notice of Review submitted by the agent and (5) two letters of objection.

Ms Greene then described the site and outlined the appellant's proposal. The application site comprised a ground floor flatted property within a traditional 2 storey granite block of 4 flats where the front and side curtilage is grass with mature shrubs and trees and shared between the application property and neighbouring Flat C. The remaining shared curtilage of the block of flats was enclosed along the length of its boundary by 1m high metal fencing. Timber fencing rising to a height of between 0.6m and 1.9m and incorporating 2 x 1.9m high gates had been erected along the front and side boundaries of the application site, fully enclosing the garden ground shared with Flat C. The fencing had been erected without planning permission and was therefore unauthorised in terms of the Town and Country Planning (Scotland) Act 1997, as amended.

In terms of the proposal, Ms Greene explained Planning permission was sought retrospectively for the erection of timber fencing along the front and side boundary of the application site. The 1.9m high fencing and associated gates fully enclosed the front garden area along the eastern boundary which fronts onto Powis Crescent and along the southern boundary which extends the length of the shared path serving the main entrance to the property. Along the northern boundary of the site the fencing had been fixed to an existing boundary wall resulting in a combined height of between 1.9 to 2.25m as it extends east to west with the exception of a 1.8m long section where it

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drops to a height of some 0.8m then links with the 1.9m high fencing which has been erected along the front of the site. A rise in ground level from south to north between the application site and the neighbouring garden ground to the north was such that the metal fencing which delineates the southern boundary of the neighbouring site rose some 0.5 to 1m above the top of the boundary wall which related to the northern boundary of the application site.

Ms Greene indicated that the appointed officer's reasons for refusal outlined in the report of handling was as follows:-

The proposed development which was retrospective is considered inappropriate in terms of the material finish, scale and siting of the fence and associated gates in the context of the residential curtilage and the surrounding area. Taking into account the height and location of the fence where it extended forward of the principal elevation of the flatted property and along the length of the site boundary with Powis Crescent, it was considered particularly intrusive within the streetscene, resulting in a significant adverse visual impact on the character and amenity of the residential area.

Furthermore, its approval would set an undesirable precedent for similar applications being granted under current policy and guidance which would further erode the visual amenity of the surrounding area. The proposal does not accord with the requirements of sub-section (g) of Policy 16 (Quality Homes) of National Planning Framework 4. It was deemed to be contrary to the requirements of Policy D1 (Quality Placemaking by Design) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 and fails to address the expectations of the Council's Supplementary Guidance on Householder Development. There are no material planning considerations of sufficient weight, including evaluation under the Proposed Aberdeen Local Development Plan 2020, that would warrant approval of the application in this instance.

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

- The fence provided a safe and private amenity space for occupants of flats A and C for family and young child;
- The communal rear garden was used extensively by the remaining occupants of the flats and their dogs and as such not suitable or safe for the family and young child to use;
- The fence also prevented vandalism, noise and unauthorised access which had happened in the past;
- Street bins were located adjacent to the front garden and the fence provided a visual barrier;
- Planting within the garden extended much higher than the fence;
- Other properties had hedges higher than the fence;
- The fence did not impede visibility for vehicles and the local Community Council did not object;
- They thought it was not unreasonable to wish to protect the property with a fence;
- The previous fence did not fulfil security or privacy requirements;



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- The fence was not overdevelopment and did not have unacceptable impact or result in loss of open space or impede traffic.
- Visual impact of unfinished larch could be improved by painting the fence green;
- Applicant willing to reduce the fence to 1.5 metres in height.

In terms of Consultations, Ms Greene advised that two letters of objection were received.

Ms Greene advised that the applicant had expressed the view that a site visit should take place before determination.

The Chairperson and Councillors Alphonse, Blake, Boulton and McRae all indicated in turn that they each 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 proposed National Planning Framework 4 and the Aberdeen Local Development Plan 2017, as well as the Proposed Aberdeen Local Development Plan 2023.

Ms Greene responded to questions from members.

**Members each advised in turn and unanimously agreed to uphold the appointed officers previous decision. Planning permission was therefore refused.**

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 development which was retrospective was considered inappropriate in terms of the material, finish, scale and siting of the fence and associated gates in the context of the residential curtilage and the surrounding area. Taking into account the height and location of the fence where it extends forward of the principal elevation of the flatted property and along the length of the site boundary with Powis Crescent, it is considered particularly intrusive within the streetscene, resulting in a significant adverse visual impact on the character and amenity of the residential area.

Furthermore, its approval would set an undesirable precedent for similar applications being granted under current policy and guidance which would further erode the visual amenity of the surrounding area.

The proposal does not accord with the requirements of sub-section (g) of Policy 16 (Quality Homes) of National Planning Framework 4. It was deemed to be contrary to the

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requirements of Policy D1 (Quality Placemaking by Design) and Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2017 and fails to address the expectations of the Council's Supplementary Guidance on Householder Development. There are no material planning considerations of sufficient weight, including evaluation under the Proposed Aberdeen Local Development Plan 2020, that would warrant approval of the application in this instance.

- **Councillor Henrickson, Chairperson**