

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

ABERDEEN, 19 February 2024. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor McRae (Chairperson) and Councillors Bouse and Copland (as substitute for Councillor Alphonse).

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

### **27 CAIRN ROAD, BIELDSIDE - INSTALLATION OF REPLACEMENT ROOF TO AN EXISTING SUN ROOM AND FORMATION OF RAISED DECKING WITH AN EXTERNAL STAIRS AND BALUSTRADE TO REAR - PLANNING REF 230595**

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 the application for the installation of a replacement roof to an existing sun room and formation of raised decking with an external stairs and balustrade to rear at First Floor Right, 13 Fraser Road, Aberdeen.

Councillor McRae 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, Mr Mark Masson 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 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 10 May 2023; (3) the Decision Notice dated 25 September 2023; (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/agent; and (6) a letter of representation from Councillor Marie Boulton and Councillor Duncan Massey.

As a preliminary matter, the LRB heard from the Council's Legal Adviser, Fiona Closs who explained that the letter of representation at (6) above was not before the Appointed Officer when determination of the planning application was made. She explained that new matters could not be raised unless that party could demonstrate:-

(a) that the matter could not have been raised before that time; or

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- (b) that it was not being raised before that time was a consequence of exceptional circumstances.

She indicated that the LRB required to consider whether the new matter raised should be taken into account in this review.

**The Chairperson and Councillors Bouse and Copland unanimously agreed in turn, not to accept the additional information/correspondence into the proceedings.**

Ms Greene then described the site and outlined the appellant's proposal for detailed planning permission to replace a section of roof associated with the sunroom, located to the south west of the dwelling, measuring approximately 8.5 sqm. The replacement roof would be Cure-IT roofing resin. In addition, a raised decking was proposed which would extend from the rear elevation of the property to a length of 5 metres and width of 6.5 metres, sitting 2.6 metres above ground level, with a proposed footprint of 34 sqm. All measurements were approximate. The raised decking would be finished in uPVC non-slip boards, dark grey in colour, where a 1.1 metre high safety baluster of steel balustrades with glass infill would be situated on the south and east side. The west side would have a 1.6 metre glazed opaque screen installed. Finally, stairs were proposed on the eastern side, allowing external access from the garden ground. The proposed steps would extend some 3.5 metres, accommodating 15 steps with a rise of 250 mm, would run parallel with the raised deck and be finished with steel balusters and handrail measuring approximately 800mm in height. Additional works detailed on the plan included window and door replacement, however, these works were deemed as permitted development and therefore did not form part of the assessment.

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

- Negative impact on amenity in surrounding area - overlooking and loss of privacy of decking – especially no. 29 Cairn Road; and
- Contrary to policies on design, residential in local plan and NPF4

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

- The policies 14 and 16 from NPF4 were more relevant to housing developments and not applicable to the application;
- Roof replacement did not detract from the area;
- Land falls southwards with storey heights difference; existing views across the neighbouring sites with low level shrubs to no. 29 – open views;
- Boundary with no. 25 was planted with high hedge and trees – not overlooking;
- Existing patio at lower ground level, not suitable due to access - proposal allows direct access to decking from dining area and kitchen;
- Decking follows line of patio underneath;
- Case Officer suggested reducing width and length of decking, further from boundary - balustrade would conflict with opening door;

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- No objection from neighbour, as existing there was visibility from both houses across both gardens;
- Included photos of views from house across gardens;
- Proposal amended to install 1.6m high panels;
- Altering size of decking was unnecessary as there would be no additional impact on overlooking. Insufficient space for outside dining with space nearly halved;
- Hedging could be planted and would form screening;
- Policy H1 – proposal complies and ‘public’ only from rear lane;
- Design: decking would align with side elevation and would look unbalanced if reduced, ruining aesthetics of rear elevation. Proposal would result in improvement to appearance of street and would match facilities of neighbours;
- Policy 14 (Design) – did not apply to private areas;
- Policy 16 (Quality Homes) – applied only to new developments; and
- Proposal did not affect parking, garden space, light, noise or air quality and worked with existing landscape.

In terms of Consultations, Ms Greene advised that there was no response from Cults, Milltimber and Bieldside Community Council and there were no representations submitted.

Ms Greene advised that the applicant had expressed the view that a site visit should be undertaken in order to evaluate the site and understand the existing relationship between the applicant’s garden and neighbours gardens areas.

The Chairperson and Councillors Bouse and Copland 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 National Planning Framework 4 and the Aberdeen Local Development Plan 2023.

Ms Greene responded to various questions from members relating to the proposed development.

**Members each advised in turn and unanimously agreed to reverse the appointed officer’s earlier decision. Planning permission is therefore granted. Any conditions attached to this permission would be set out below.**

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 proposal in view of its design, including the screening, and position on the building, would not have a significantly detrimental impact on the amenity of the neighbours with privacy not being significantly impacted. The proposed decking would be at the rear of the house out of view from the main public street.

The proposal would therefore comply with Policy H1 – Residential Areas and D2 - Amenity in the Aberdeen Local Development Plan 2023 and Policy 16: Quality homes in National Planning Framework 4.

**CONDITIONS**

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.

**(02) SCREENING TO DECKING**

That the decking shall not be used unless there is in place screening to the south west side of the decking as shown on the approved drawings, or such others as may be subsequently agreed with the planning authority.

Reason - to obscure the outlook from the raised deck area in order to protect the privacy of neighbours.

**(03) PLANTING ON BOUNDARY**

That the decking shall not be brought into use unless there has been submitted to, and approved in writing by the planning authority, details including a layout plan showing the location, number, species and size at planting of the plants and trees to be planted along the garden boundary with no. 29 Cairn Road. Thereafter the planting shall take place within the planting season immediately after the completion of the development.

Reason – in order to screen views of the supporting structure to the decking from across the rear garden of no. 29 Cairn Road.

**10 WOODHILL PLACE - INSTALLATION OF REPLACEMENT 1.5 STOREY REAR EXTENSION WITH RAISED DECKING, FENCING, STEPS AND BALUSTRADE AND ALTERATIONS TO EXISTING REAR DORMER- PLANNING REF 231176**

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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 installation of replacement 1.5 storey rear extension with raised decking, fencing, steps and balustrade and alterations to existing rear dormer at 10 Woodhill Place, Aberdeen.

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 22 September 2023; (3) the decision notice dated 20 December 2023; (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) one letter of representation including additional correspondence.

Ms Greene then described the site and outlined the appellant's proposal.

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

- Materials – change to rendered finish did not reflect character of area;
- Overbearing and incongruous addition in area, out of keeping with scale and character;
- Overlooking and loss of privacy – raised deck, increased intensity of use at elevated level – impact on residential amenity; and
- Contrary to policies on design, residential areas and amenity in local plan and NPF4.

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

- Described previous application (230143) and debate at LRB – Body was minded to approve except for change to materials timber to cladding. However, refusal was on same grounds as previous application;
- Did not consider the proposals to be overdevelopment of the plot, or out of keeping with scale, material or character of the area;
- The proposed extension was, in part, a replacement of an existing extension to the rear of the property;
- The footprint of the dwelling would be increased by only 17sqm. The resultant plot ratio would be 25% developed;.
- Proposals were to the rear of the property and not visible from street frontage;

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- The proposed extension tied in with the existing roof profile; eaves and ridges levels, pitch and hipped gable end;
- The proposed extension matched existing dwelling roof finish of natural slate;
- Open to discussing and amending external finishes of the proposals to where there were concerns over external wall materials and extent of cladding proposed;
- Majority of dwellings in vicinity were 1 and half storey and a number of these had storey and half, full property width extensions to the rear (see plan);
- Site was sloping and all properties were elevated above gardens without overlooking;
- Existing rear extension included conservatory with south facing glazing overlooking number 8 Woodhill Place. Proposal removed this direct line of sight, with windows all to face the private garden to the east;
- Numbers 10 and 12 Woodhill Place, along with others in the street, share driveway access to the rear garden resulting in reduced privacy between dwellings;
- Proposals amended to incorporate privacy screen to the boundary of proposed raised decking to limit overlooking to No 8 Woodhill Place;
- 'Juliet Balcony' was full height glazed window with external protective barrier;
- Planning consent recently approved for a raised rear deck to neighbouring property No 12 Woodhill Place (210851/DPP – 24 February 2022);
- Photo submitted showed view from existing conservatory;
- Current proposal omitted cladding and spec was render, in keeping with existing extension and others in area – as well as LRB discussions; and
- Render did not affect scale as decision stated.

Ms Greene made reference to the letter of objection. No comments were submitted by the Community Council.

Ms Greene advised that the applicant had expressed the view that no further procedure was required, however it was for members to consider whether they consider it necessary.

At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review.

The Chairperson and Councillors Bouse and Copland 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 National Planning Framework 4 and the Aberdeen Local Development Plan 2023.

Ms Greene responded to various questions from members.

**Members each advised in turn and unanimously agreed to overturn the appointed officer's earlier decision to refuse the planning permission and approved the application conditionally.**

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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 are as follows:-

The proposal is in keeping with the character of neighbouring houses, it does not have a significantly detrimental effect on the neighbour to no. 8 Woodhill Place. Compared to the previous application, the proposal now includes a revision to the elevational materials that is considered acceptable. Screening to the decking would prevent looking into the neighbours extension from the decking.

The proposal therefore complies with policy H1 – Residential Areas, D1 – Quality Placemaking and D2 – Amenity in the adopted Aberdeen Local Development Plan and Policy 16- Quality Homes in the National Planning Framework 4.

**CONDITIONS**

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.

**(02) SCREENING**

That the decking shall not be erected unless there has been erected screening along the southern side of the decking adjacent the boundary with no.8 Woodhill Place in accordance with a scheme that has been submitted to and approved in writing by the planning authority, showing an opaque glazing or other such material that allows light to pass through whilst providing a privacy screen to neighbours.

Reason – In the interests of residential amenity. To protect privacy, whilst not blocking daylight to the neighbour.

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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 formation of a driveway and alterations to the boundary wall at 27 Cromwell Road, Aberdeen.

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 2 August 2023; (3) the decision notice dated 16 October 2023; (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) three letters of representation all objecting to the proposal and a letter of representation from the Council's Roads Development Management Team.

Ms Greene then described the site and outlined the appellant's proposal.

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

- Loss of granite wall which was historic boundary feature and unified street;
- Rear parking was used for houses on this stretch of road; and
- Negative feature in terms of character of area.

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

- Proposal maintained granite heritage of neighbourhood – minimal length of wall removed (less than 3.5m); part of garden would remain;
- Needed for charging of electric car;
- Similar Car parking spaces existed in area, inc no 21, 23, 25, 56, 58 and others;
- No objection from Roads Team;
- Representations were unrelated to proposal;
- Using rear access would necessitate widening gates and other difficulties;
- Raspberry bushes and apple tree, sheds within rear garden either sides of gate;
- Proposal helped towards climate crisis and mitigation by providing charging for electric car and retaining plants/trees to rear;
- Property to rear with 3 cars renders access and was congested – car had been damaged in rear lane; van often parks blocking access; and
- Details of numbers of vehicles associated with no.29 and difficulties for appellant to park.



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Ms Greene made reference to the three letters of objection. There were no objections from the Roads Development Management Team or the Community Council.

Ms Greene advised that the applicant had expressed the view that no further procedure was required, however it was for members to consider whether they consider it necessary.

At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review.

The Chairperson and Councillors Bouse and Copland 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 National Planning Framework 4 and the Aberdeen Local Development Plan 2023.

Ms Greene responded to various questions from members, specifically around the finish of the driveway, the nearby traffic island and the possible re-use of the granite.

**Members each advised in turn and unanimously agreed to overturn the appointed officer's earlier decision to refuse the planning permission and approved the 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.

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

The proposal is considered acceptable, taking into account that there are a number of other driveways along Cromwell Road and this proposal would allow for ease of charging of an electric car. It is also taken into account that one on-street parking space would be lost whilst one private space would be gained, which is considered acceptable. The proposal is considered acceptable on road safety grounds taking into account the nature of the road and location of the traffic island to the west.

**CONDITIONS**

This permission is granted subject to the following conditions.

(01) DURATION OF PERMISSION

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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.

(02) REUSE OF GRANITE

That the granite wall section shall not be removed unless there has been submitted to and approved in writing by the planning authority a strategy for the reuse of the granite, or its storage and the strategy as so agreed shall be implemented in full.

Reason – In the interests of sustainability to ensure that the granite is reused or stored for reuse in the future.

**1B SKENE PLACE - DEMOLITION OF EXISTING GUEST HOUSE AND ERECTION OF DWELLING HOUSE - PLANNING REF 230596**

4. The LRB then considered the fourth and final 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 demolition of an existing guesthouse and the erection of a dwellinghouse at 1B Skene Place, Dyce, Aberdeen.

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 16 May 2023; (3) the decision notice dated 26 October 2023; (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 from the Council's Roads Development Management Team, Waste and Recycling Team, The Environmental Health Team, Aberdeen International Airport and Dyce and Stoneywood Community Council.

Ms Greene then described the site and outlined the appellant's proposal.

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

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- The application has been assessed against the relevant policies of the Aberdeen Local Development Plan 2023 (ALDP) and National Planning Framework 4 (NPF4) and overall is considered to be unacceptable. In respect of Policy H1 (Residential Areas) of the ALDP, the proposal would result in over development of the site and does impact on the character of the area owing to the disruption to the pattern of development. Furthermore, there would be an impact on the amenity of 1A Skene Place due to the reduction in private garden ground and also an impact on the amenity of any future occupants of the proposed dwelling owing to an insufficiently sized private garden area and unacceptable external noise levels. As such, the proposal not only fails to comply with the criteria of Policy H1, its also fails to comply with Policy B3 (Aberdeen International Airport and Perwinnes Radar), Policy D1 (Quality Placemaking) and Policy D2 (Amenity) of the ALDP. The proposal is also not considered to be consistent with Policy 14 (Design, Quality and Place) of NPF4, in that it fails to meet the six qualities of successful places.

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

- Contained number of photos of surrounding area including flats on Farburn Place;
- Existing house at 1B would lose 21m<sup>2</sup> of garden but would retain 183m<sup>2</sup> outside space, equating to more than two thirds;
- House was consistent with neighbour and open to discuss materials;
- House would not be out of character within area;
- Reference made to design of flats (Farburn Place), which were simple and low budget; and
- Noise survey stated that with the mitigation measures, residents should live in suitable environment.

Ms Greene made reference to the Community Council's comments. She advised that there were no objections from the Council consultees and Aberdeen Airport. There were no other representations submitted.

Ms Greene advised that the applicant had expressed the view that a site visit should be undertaken which would be beneficial to understand the site situation.

At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review.

The Chairperson and Councillors Bouse and Copland 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 National Planning Framework 4 and the Aberdeen Local Development Plan 2023.

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Ms Greene responded to various questions from members, specifically around the footprint of the proposal and noise mitigations.

**Members each advised in turn and unanimously agreed to overturn the appointed officer's earlier decision to refuse the planning permission and approved the 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.

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

The proposal would provide an acceptable level of plot coverage given the coverage of the existing building on site. With the measures recommended within the Noise Impact Assessment a satisfactory level of residential amenity would be achieved within the property in respect of noise. It is also taken into account that the parking provision is acceptable and there is a park immediately adjacent to the site. The design and dimensions of the house would match that of the neighbouring property and it would therefore be in keeping with the surroundings. Overall with the attachment of a condition requiring noise mitigation, the proposal would comply with the relevant policies in the development plan including Policy H1 – Residential Areas, Policy B3 – Aberdeen International Airport and Policy D1 – Quality Placemaking.

**CONDITIONS**

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.

**(02) NOISE MITIGATION**

That the property shall not be occupied unless the measures identified within Revision 2 (07.09.2023) of the Noise Impact Assessment by Grosle Environmental Services, relating to the house, have been implemented in full and are operational. Reason – In order to ensure an adequate level of residential amenity within the house.

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**(03) REFUSE DISPOSAL**

That the house shall not be occupied unless details have been submitted to and approved in writing by the planning authority of the bin storage and collection arrangements.

Reason – In the interests of residential amenity.

**(04) MATERIALS**

That materials for the house and boundary wall shall be as indicated on the approved drawings unless otherwise agreed in writing with the planning authority.

Reason – In the interests of visual amenity.

**(05) LOW AND ZERO CARBON EMISSIONS EQUIPMENT AND WATER EFFICIENCY**

That the proposal shall be built only in accordance with details submitted to and approved by the planning authority to show how the house would include low and zero carbon generating technology and water saving technologies to comply with the requirements of Policy R6 - Low and Zero Carbon Buildings, and Water Efficiency of the adopted Aberdeen Local Development Plan 2023 and the Aberdeen Planning Guidance 2023: Resources for New Development.

The house shall not be occupied unless the measures as so agreed have been installed and are fully operational (excepted during reasonable periods of maintenance).

Reason – In the interests of climate change mitigation.

- **COUNCILLOR CIARAN MCRAE, Chairperson**