

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 20 May 2024. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor McRae, Chairperson; and Councillors Copland and Macdonald.

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

SECTION 42 (VARIATION OF CONDITIONS) - VARIATION OF CONDITION 4 (TIME LIMIT FOR DEVELOPMENT) OF PLANNING PERMISSION 221571/DPP - GREENPASTURE ANGUSTON ABERDEEN

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 a Section 42 (variation to conditions) for the variation to condition 4 (time limit for development) of Planning Permission 221571/DPP, at Greenpasture, Anguston Aberdeen, planning reference number 231289.

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, 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 13 October 2023, (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 applicant; and (5) letters of representation from the Aberdeen City Council's Roads Development Management Team, and Waste and Recycling Team, as well as neutral comments received from interested parties.

Ms Greene then described the site and outlined the appellant's proposal. The application site was located in the countryside, 3.5km to the northwest of Peterculter, to the east of Baads and a group of houses known as Hillcrest Courtyard. It formed part of

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a wider site of some 2.3 hectares which included agricultural land, a stable block, and a temporary chalet. A detached dwellinghouse was currently under construction and close to completion in the eastern part of the site. The ground level across the wider site rises from south to north, with its northern boundary forming the crest of a hill. To the south of the application site were fields, whilst to the west and across an access track were a group of six houses.

The application was submitted under the provisions of Section 42 of the Town and Country Planning (Scotland) Act 1997 and sought to allow the development to be carried out without compliance with condition 4 of planning permission 221571/DPP which concerned the change of use of land for the erection of a temporary chalet/mobile home. Condition 4 related to a restriction in regards to timescales, and states that following:

“The following time limits and related conditions on the planning permission hereby granted shall apply:

- (a) The development permitted by this planning permission shall expire on the 23rd October 2023 and for no longer period.
- (b) By the 23rd October 2023 the land on which the development permitted by this planning permission shall be reverted to its previous use (as land for the curtilage of the dwellinghouse or otherwise land clear of any structure permitted by this planning permission and any caravan/mobile home/chalet removed), and without prejudice to the foregoing generality, shall include the following works or operations:
 - (i) Removal of any caravan/mobile home/chalet and associated structures permitted by this planning permission from the land for which this permission relates;
 - (ii) The completion of any works necessary to restore the land to its previous position before the use of the caravan site was begun;
 - (iii) Restoration of the land's use as curtilage to the dwelling house on the development site.

Reason: in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE2 (Green Belt) of the Aberdeen City Local Development Plan 2017, Policy NE1: Green Belt of the Proposed Aberdeen Local Development Plan 2020 2017 and Policy 8 Green Belts of National Planning Framework 4.” The applicant is seeking to amend the condition to allow for the extension of the permission until 31st July 2024, to allow for completion of the house and the removal of the temporary mobile home by that later date.

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

The continued use of the land for the siting and use of a temporary chalet / mobile home had not been designed with due consideration for its context and would have an adverse impact on the surrounding Green Belt. There had been two earlier permissions, which had allowed the retention of the building for a period of 30 months through planning permissions 201480/DPP and 221575/DPP and a further period

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cannot be justified in this instance. The proposals would therefore be contrary to Policy 8 (Green Belt) of National Planning Framework 4 and Policies NE1 (Green Belt) and D1 (Quality Placemaking) of the Aberdeen Local Development Plan.

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

- They refer to the planning history of the site and the need for supervision of the stud;
- The mobile home was in the garden area of the house;
- The development of the stud business, stables and house had commenced;
- Without supervision horses could not be brought to the site;
- A very strict approach was taken, whereas other authorities had policies for temporary accommodation
- Green belt policy compliant - small scale, ancillary, no increase in intensity of activity and was within the boundary of the existing activity
- There were supporting letters from other stud business and also the vet

In terms of Consultations, Ms Greene advised that the Council's Roads Team and Environmental Health Team had no objections; that the Waste Management had no objection but provided general information in regards to waste and there was no response received from the local Community Council. Two letters of representation had been received which were both neutral.

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

The Chairperson and Councillors Copland and Macdonald 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 questions from members.

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:-

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The provision of the principle of development on site for a temporary period has previously been established on site, with further evidence submitted to as to why the development was not completed within the initially consented 18-month period, and why a further period of 7 months is required. The Planning Authority have previously accepted that an on-site presence is required and the associated dwellinghouse appears close to completion. Taking the above into account, it is considered that there are material considerations, which would carry sufficient weight and provide justification to support the application in this instance, for a further temporary time period, notwithstanding that the requirements of Policy 8: Green Belts of National Planning Framework 4 and Policy NE1 (Green Belt) of the Aberdeen Local Development Plan 2023 may not be fully addressed.

The proposals would not be acceptable on a permanent basis due to the adverse impact on the surrounding landscape, but on a further temporary period it is considered that the proposals would not be contrary to the aims and aspirations of Policy D1: Quality Placemaking of the Aberdeen Local Development Plan, given the temporary nature of the proposal and the limited scale of development which would result.

CONDITIONS

This permission is granted subject to the following conditions.

(01) USE OF CARAVAN

That the caravan site hereby granted planning permission, shall not be occupied by any person other than a person employed full-time in the stud farm (approved under application Ref P110648 & P120873) and the dependants, widow or widower of such a person in accordance with the Planning Authority's policy of restricting isolated developments in the countryside unless specifically required in connection with an essential rural occupation.

Reason: to preserve the amenity and integrity of the Green Belt and in accordance with Policy NE1 (Green Belt) of the Aberdeen Local Development Plan 2023 and Policy 8: Green belts of National Planning Framework 4.

(02) NUMBER OF CARAVANS

That the caravan site hereby granted planning permission shall be limited to one caravan/mobile home/chalet on site at any one time.

Reason: that the justification provided and deemed necessary to allow the stud farm to become fully operational would not support multiple homes on site, and in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE1 (Green Belt) of the Aberdeen Local Development Plan 2023 and Policy 8: Green belts of National Planning Framework 4.

(03) MATERIALS

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That the approved material finishes (approved under application 221571/DPP) are maintained for the duration of the caravan/mobile home/chalet unit being located on site.

Reason: in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE1 (Green Belt) of the Aberdeen Local Development Plan 2023 and Policy 8 Green Belts of National Planning Framework 4.

(04) TIME LIMITS

The following time limits and related conditions on the planning permission hereby granted shall apply:

- (a) The development permitted by this planning permission shall expire on the 31st July 2024 and for no longer period.
- (b) By the 31st July 2024 the land on which the development permitted by this planning permission shall be reverted to its previous use (as land for the curtilage of the dwellinghouse or otherwise land clear of any structure permitted by this planning permission and any caravan/mobile home/chalet removed), and without prejudice to the foregoing generality, shall include the following works or operations:
 - (i) Removal of any caravan/mobile home/chalet and associated structures permitted by this planning permission from the land for which this permission relates;
 - (ii) The completion of any works necessary to restore the land to its previous position before the use of the caravan site was begun;
 - (iii) Restoration of the land's use as curtilage to the dwelling house on the development site.

Reason: in the interests of visual amenity and to suitably protect the landscape character and setting of the Green Belt, in accordance with Policy NE1 (Green Belt) of the Aberdeen Local Development Plan 2023 and Policy 8 Green Belts of National Planning Framework 4.

DETAILED PLANNING PERMISSION FOR THE CHANGE OF USE OF FLAT TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF 4 PEOPLE - 22 ALLAN STREET ABERDEEN

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 change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of four people at 22 Allan Street Aberdeen, planning reference number 231145.

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The Chairperson stated that although the Planning Adviser for the LRB 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 notice by the Appointed Officer, Aberdeen City Council; (2) an application dated 13 September 2023 (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 representations received from consultees and interested parties.

Ms Greene then described the site and outlined the appellant's proposal. The property was a first floor flat within a semi-detached tenement building located in the residential area to the south west of the city centre. The building was divided into six flats with access to this flat via a rear stairway leading to the first floor. One other flat was accessed from this communal door and corridor (First floor right 22 Allan Street). Other flats in the building had separate access doors and lobby accesses. The flat was laid out with two bedrooms, a kitchen and a living room. The building had a large communal garden to the rear.

In terms of the proposal, it was noted that detailed planning permission was sought, for the change of use of the property from a residential flat to Short Term Let (STL) accommodation (both sui generis). The applicant advised that the maximum occupancy for the Short Term Lease was 4 persons at any one time, with a minimum stay duration of 3 nights. The property would be operated as an STL on a permanent basis and waste from the property would be collected from the on street residential waste bins. The property would have no maximum period of stay. There was an existing key safe to allow access located on the front door frame.

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

The change of use of the property from a residential flat to short term let accommodation would have a significant adverse impact on the amenity of the occupants of the neighbouring residential flat which shares an access and entrance vestibule. This was because the occupants of the neighbouring flat would have to share the communal entrance and vestibule solely with frequently changing transient guests and cleaners of the short term let accommodation unit, who would be unknown to them. Taking into account the small size of the vestibule and close proximity of the private entrances of each property to each other, this would result in a significant adverse impact on the privacy and sense of security, whether actual or perceived, on the occupants of the neighbouring flat, as well as result in likely general noise disturbance compared to if the application property was in mainstream residential use.

The proposal would therefore adversely affect the residential amenity of the surrounding area, contrary to the aims of Policy 14 (Design, Quality and Place) of

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National Planning Framework 4 (NPF4), and Policies H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023. It is recognised in general terms that the location of this short term let accommodation unit would likely have local economic benefits in that it would provide tourist accommodation which is accessible from the city centre, the amenities and businesses of Holburn and Union Street and it is in a location that is accessible to public transportation. However, the specific circumstances of this site and the proposal are such that it would result in an unacceptable impact on the local amenity of the area to a degree that would significantly outweigh any local economic benefit that would arise from the use of the property as a short term let accommodation unit. The proposal was therefore also contrary to the aims of Policy 30 (Tourism) of NPF4.

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

- The property had been operating as a short term let for a number of years without any issues;
- Guests receive a welcome video which walks them from the street right to the apartment entrance which helped to limit the time guests were spending in the communal areas;
- There had been no reported incidents indicating a decline in privacy or security for neighbouring occupants;
- The operation of the property as an STL had been conducted responsibly and without any adverse effects on the surrounding area. The concerns raised by the planning department were speculative and did not reflect the actual situation.

In terms of Consultations, one letter of objection was received and one neutral letter, and consultee comments from Roads Development Management and Waste Management Planning.

Ms Greene advised that the applicant had expressed the view that no further procedure was required before determination.

The Chairperson and Councillors Copland and Macdonald 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 then answered various questions from Members.

Members each advised in turn and unanimously agreed to overturn the appointed officers decision and grant planning permission 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

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(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 use was considered acceptable as being complementary to residential use; there was no significant impact on residential amenity. With the issues of refuse disposal and parking having been satisfactorily addressed there were no other objections to the use as short term let, with the use having been operating for some time.

The property in question is relatively close to the city centre and therefore complies with Policy VC2: Tourism and T2: Sustainable Transport in the adopted Aberdeen Local Development Plan 2023 (LDP). The proposal would comply with Policy H1: Residential Areas and Policy D2: Amenity. In terms of parking the short term let use was considered to have a similar demand as a residential use, and the proposal complies with Policy T3 in the LDP.

A condition is attached to restrict the permission to a five year temporary period in order for the impact on housing supply to be assessed at that time. The proposal therefore complies with Policy 30 in National Planning Framework 4 (NPF4).

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) TIME LIMIT FOR SERVICED APARTMENT USE

The use of the flat for short term let accommodation as hereby approved, shall expire 5 years following the date of the grant of permission as stated on this notice, unless a further planning permission has been granted for continued use of the property as serviced apartment accommodation in the meantime. Should no further planning permission be granted then the property shall revert to a flat in residential use after the aforementioned 5-year period.

Reason: In order to allow reassessment of the local housing need and demand situation and the local economic benefits derived from the use of the property as short term let accommodation to be reassessed in 5 years' time, to ensure that the loss of the

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property as residential accommodation would remain compliant with Policy 30 of NPF4.

DETAILED PLANNING PERMISSION FOR THE ERECTION OF SINGLE STOREY EXTENSION TO THE SIDE AND REAR, FORMATION OF DORMER TO REAR AND FORMATION OF ROOF TERRACE ON REAR EXTENSION - 63 GROVE CRESCENT ABERDEEN

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 erection of a single storey extension to the side and rear, formation of dormer to the rear and formation of roof terrace on the rear extension at 63 Grove Crescent Aberdeen planning reference number 231029.

The Chairperson stated that although the Planning Adviser for the LRB 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 notice by the Appointed Officer, Aberdeen City Council; (2) an application dated 19 August 2023 (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.

Ms Greene then described the site and outlined the appellant's proposal. The application site was situated within the residential area of Cornhill, located to the north west of Aberdeen City Centre. The application property comprised of a one storey semi-detached property which holds a north facing principal elevation which overlooks a double driveway. The rear, south facing, elevation overlooks a large curtilage, where a single storey garage is situated to the south east of the curtilage, accessed via Grove Crescent to the south. A side curtilage to the west of the dwelling allows access from the front curtilage into the rear amenity space. The dwelling adjoins 61 Grove Crescent to the east and shares its boundary with neighbouring 65 Grove Crescent to the west.

In regards to the proposal, detailed planning permission was sought for multiple components of development which would be set within the side and rear curtilage. Firstly, permission was sought to erect a single storey extension, projecting 4.5 metres from the south, rear, elevation, spanning the entire 6.5 metre width of the existing dwelling, with an approximate height of 2.9 metres. A window opening was proposed on its west elevation and double glazed sliding doors and an glazed paned are proposed for the south elevation, which would measure 2 metres high and 5.4 metres wide. The west and south elevation would be harled to match the existing property. A roof terrace was proposed on the roof of the extension, accessed via the proposed dormer extension. A glazed balustrade was proposed along the perimeter of the terrace, which would measure 1.1 metres in height, resulting in an extension with a total height of 4

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metres. The proposed plans received detail that the proposed terrace/roof of the rear extension would be tiled to finish.

The dormer extension was proposed for the south elevation of the existing roof plane and would have a depth of 4.4 metres and a width of 3.4 metres. Finally, a side extension was proposed which would project 4 metres from the west facing gable and would measure 5.3 metres in length. The proposed side extension would sit 3 metres behind the north facing principal elevation and would measure 3 metres in height where the total floorspace would measure approximately 21.5 sqm. The north, south and west elevations would be harled to match the existing dwelling where a horizontal window would be located on the south elevation, measuring 3 metres wide and 500mm in height. The north facing elevation of the side extension would have an access door and window, where the flat roof would be finished in Sarnafil single ply membrane.

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

The combined effect of the rear and side extensions, along with the proposed roof terrace and dormer extension would significantly overwhelm the dwelling and results in overdevelopment and therefore the proposal does not adhere to the relevant criteria of Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP). The overall design and scale of all aspects of the proposal would alter the overall aesthetics of the dwelling as well as affecting its character and resulting in an unbalance of the symmetry between the application site and the adjoining property at 61 Grove Crescent.

Furthermore, the projection of the rear extension does not adhere with Council guidance, as set out in the Householder Development Guide Aberdeen Planning Guidance. As such, the character of the area would be affected by this development and overall, the proposal fails to comply with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking) of the ALDP, the Householder Development Guide Aberdeen Planning Guidance and with Policy 14 (Design, Quality and Place) and Policy 16 (Quality Homes) of National Planning Framework 4 (NPF4). Page 130 Application Reference: 231029/DPP Page 9 of 9 The proposed dormer and roof terrace do not comply with the criteria outlined in the Householder Development Guide Aberdeen Planning Guidance, in that they would significantly impact on the existing level of residential amenity for neighbouring residents in terms of loss of privacy.

Furthermore, the rear extension would result in an adverse daylight and sunlight impact for 61 Grove Crescent. Therefore, the proposal fails to comply with Policy H1 (Residential Areas) and Policy D2 (Amenity) of the ALDP, the Householder Development Guide Aberdeen Planning Guidance and with Policy 16 (Quality Homes) of NPF4.

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

- The area was mixed use including residential;

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- The proposal takes account of context, including nearby properties, and were in keeping and no worse in design, size, scale and design;
- The property would not be adversely compromised by changes, essential characteristics and appearance would be improved;
- A precedent had been created by neighbouring properties;
- A site visit would be merited;

In terms of Consultations, no letters of representation were received and no consultee comments.

Ms Greene advised that the applicant had expressed the view that a site visit should take place before determination. It was also noted that the applicant had said that no new matters were introduced with the Notice of Review however new drawings were submitted. This was classed as new information and therefore it was for Members to decide whether to accept these or not. Members agreed unanimously not to accept the new information and these drawings would not be considered during determination of the application.

In terms of the further procedure, the Chairperson and Councillors Copland and Macdonald 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.

Members each advised in turn and by majority they agreed to uphold the officers earlier decision and refuse the planning permission.

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 combined effect of the rear and side extensions, along with the proposed roof terrace and dormer extension would significantly overwhelm the dwelling and results in overdevelopment and therefore the proposal does not adhere to the relevant criteria of Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP).

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The overall design and scale of all aspects of the proposal would alter the overall aesthetics of the dwelling as well as affecting its character and resulting in an unbalance of the symmetry between the application site and the adjoining property at 61 Grove Crescent.

Furthermore, the projection of the rear extension does not adhere with Council guidance, as set out in the Householder Development Guide Aberdeen Planning Guidance. As such, the character of the area would be affected by this development and overall, the proposal fails to comply with Policy H1 (Residential Areas) and Policy D1 (Quality Placemaking) of the ALDP, the Householder Development Guide Aberdeen Planning Guidance and with Policy 14 (Design, Quality and Place) and Policy 16 (Quality Homes) of National Planning Framework 4 (NPF4).

The proposed dormer and roof terrace do not comply with the criteria outlined in the Householder Development Guide Aberdeen Planning Guidance, in that they would significantly impact on the existing level of residential amenity for neighbouring residents in terms of loss of privacy.

Furthermore, the rear extension is would result in an adverse daylight and sunlight impact for 61 Grove Crescent. Therefore, the proposal fails to comply with Policy H1 (Residential Areas) and Policy D2 (Amenity) of the ALDP, the Householder Development Guide Aberdeen Planning Guidance and with Policy 16 (Quality Homes) of NPF4.

- **Councillor Ciaran McRae, Chairperson**