

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 26 August 2024. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor McRae, Chairperson (Reviews 1 and 2 only); and Councillors Clark (Reviews 1 and 2 only), Cooke (Review 3 only - as substitute for Councillor Alphonse), Copland and Lawrence.

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

11 VICTORIA STREET, CITY CENTRE - CHANGE OF USE FROM COMMERCIAL OFFICE SPACE INTO 2NO. RESIDENTIAL DWELLINGS INCLUDING FORMATION OF FRENCH DOORS FROM EXISTING WINDOW OPENING, WINDOW ENLARGEMENT TO FORM NEW OPENINGS WITH JULIET BALCONIES, REPLACEMENT DOOR AND INSTALLATION OF ROOFLIGHTS (REAR); REINSTATEMENT OF RAILINGS AND GATE (FRONT); FORMATION OF CAR PARKING (REAR) AND LANDSCAPING WORKS WITH ASSOCIATED BOUNDARY TREATMENT

1. The Local Review Body (LRB) of Aberdeen City Council met on this day to consider the non-determination of the application for the change of use from commercial office space into two residential dwellings including formation of french doors from existing window opening, window enlargement to form new openings with Juliet balconies, replacement door and installation of rooflights (rear); reinstatement of railings and gate (front); formation of car parking (rear) and landscaping works with associated boundary treatment at 11 Victoria Street, Aberdeen, AB10 1XB.

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 draft delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 5 March 2024; (3) links to the plans showing the proposal and planning policies referred to in the draft delegated report; (4) the Notice of Review submitted by the applicant/agent; and (5)

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

consultee correspondence from the Council's Environmental Health and Waste and Planning and Roads Development Management Teams.

Ms Greene then described the site and outlined the appellant's proposal for detailed planning permission.

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

- Unacceptable level of residential amenity for 1 bedroom flat to rear;
- Unacceptable level of private amenity space for 3 bedroom flat;
- Flat to rear would have single aspect, with high level of glazing – overlooking;
- Access to rear flat unlit, unadopted service lane, limited surveillance and no active street frontage – safety, women's safety;
- Property with no public face to the street - would not fit with established pattern of street facing buildings;
- Neither dwelling had acceptable amenity – single aspect;
- Contrary to D1: Design and D2: Amenity of LDP 2023 and APG on Amenity and Space standards NPF4 – Policy 14 (Design, Quality and Place) and 16 (Quality Homes); and
- No adverse impact on Conservation Area, climate and nature crises.

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

- The principle of residential use was acceptable for the area and for the property – Policy B3 of the ALDP;
- It was acknowledged that the proposal would have no adverse impact on the character or appearance of the Albyn Place/Rubislaw Conservation Area;
- Proposal would suitably address the aims of Policies 1, 2, 3 and 9 of NPF4;
- It suitably accorded with the aims of Historic Environment Policy for Scotland and Policy D4 of the ALDP;
- NPF4 Policy R6, Policies 12 and 13 are also all satisfied;
- Planning history recounted, with previous LRB approval;
- Main change was removing internal access from front house to rear – 70m walk, not unusual in cities. And swap of bedroom/living space to rear;
- 3 bed flat had garden to front / west and generous windows, planting could be conditioned or remove parking space;
- 1 bed flat had garden and pleasant surroundings, light enhanced by change;
- Access from well used lane and safe area;
- Openings between new and old would be infilled – acoustic separation and disturbance;
- Property was close to Rubislaw Terrace Gardens, cafes and facilities;
- Single aspect was a common feature, large windows and larger ground floor area;
- Lane was shorter than many driveways (15m);
- Applicant would accept lighting fixed to boundary wall; and

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

- Rear flat would have public frontage to lane, which is used to access other properties, fence could be heightened by conditioned.

In terms of Consultations, Ms Greene advised that the Roads Development Management Team had no objections. There were no comments from Environmental Health; and the Waste Team highlighted that the residents would use a communal street bin, however on further investigation, the Waste Team had now considered that the residents from the rear flat would need to walk more than the guidance 30 metres to the bins, and would have to walk 70 meters. For that reason the Waste Team stated that they would object to the application. There were no comments received by the Community Council and there were no representations submitted.

Ms Greene advised that the applicant had expressed the view that the review may benefit from a site visit.

The Chairperson and Councillors Copland, Clark and Lawrence 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 application including the rear of the property and wall to be built and also waste management bin collections.

Members each advised in turn and unanimously agreed to reverse the appointed officer's earlier 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 are as follows –

That the proposal would result in the reuse of the building and creation of two residential properties within an area where changes to residential use are supported under Policy VC6 (West End Area) in the Local Development Plan 2023 (LDP) and reuse supported under Policy 9 of National Planning Framework 4 (NPF4). An adequate level of residential amenity would be achieved within the properties with all habitable rooms having adequate lighting and separate entrances. With the attachment of conditions to ensure external lighting and refuse storage are provided, the application is considered acceptable.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

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) EXTERNAL LIGHTING

That the flat to the rear shall not be occupied unless there has been external lighting installed within the rear area adjacent the lane in accordance with details that have been submitted to and approved in writing by the planning authority. The lighting shall thereafter remain in place and operational. Reason - in the interests of safety and security.

(03) REFUSE STORAGE

That the flat to the rear shall not be occupied unless there has been installed a refuse bin storage enclosure within the rear curtilage, in accordance with details that have been submitted to and approved in writing by the planning authority.

155 BON-ACCORD STREET - CHANGE OF USE OF FLAT TO SHORT TERM LET ACCOMMODATION (SUI GENERIS) WITH MAXIMUM OCCUPANCY OF 4 PEOPLE

2. The LRB then considered the second request to review the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for the change of use of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 4 people at 155 Bon-accord Street, Aberdeen, AB11 6XE.

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 19 March 2024; (3) the decision notice dated 14 May 2024; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; (5) the Notice of Review submitted

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

by the applicant's agent; and (6) correspondence from Aberdeen City Council's Roads Development Management Team and Waste and Recycling Team.

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

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

- Impact on amenity and security of neighbour with transient guests using otherwise private rear garden and site entrance;
- Guests would pass rear windows of ground floor/basement flat being able to look in – privacy impact; and
- Contrary to NPF4 Policy 30 Tourism, H1 of ALDP.

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

- Regarding security, the main door for ground floor flat was at front, meant primary access unaffected;
- Management of frequency and nature of guest stays, guest vetting and clear house rules meant minimal disruption;
- Neighbour who shared garden had expressed no concern;
- Willing to install screening and landscaping to prevent overlooking;
- STL would align with broader aims of Policy 30 to support tourism and local economy; and
- With mitigation, impact on residential amenity would be negligible, with high standard of maintenance and monitoring.

The Council's Waste Team had no objection, guests could use resident bins until commercial collection had been established; The Roads Team had no concern or objection as parking was the same as mainstream residents. No comments were submitted by the Community Council and no representations were received.

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

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 Copland, Clark and Lawrence 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 relating to the existing property and whether there were two separate addresses for both properties.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

Members each advised in turn and unanimously agreed to reverse the appointed officer's earlier 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 are as follows:-

That with a condition relating to translucent screening to the basement windows of the neighbouring property below the application flat, it is considered that the use of the application flat for a short term let would be acceptable in terms of residential amenity and therefore complies with Policy H1 – Residential Areas and H2 – Amenity in the Aberdeen Local Development Plan 2023.

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

(03) SCREENING

That unless agreed otherwise in writing with the planning authority, the use of the flat for short term let accommodation shall not take place unless there has been implemented a scheme for screening within the rear garden between the

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

footpath to the entrance door of the application property and the basement windows to the dwelling below, in accordance with details to be agreed in writing with the planning authority. Such screening shall allow the passage of light such as (but not limited to) planting / trellising or translucent screen.

Reason: In order to protect the privacy of the occupants of residential accommodation at basement level.

Prior to consideration of the third review, Councillors McLellan and Clark left the meeting, for the reason that the property was located within their Electoral Ward, therefore they took no part in the proceedings. Councillor Copland Chaired the remainder of the meeting.

26 SPEY ROAD - ERECTION OF SINGLE STOREY EXTENSION TO FRONT

3. The LRB then considered the third request to review the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for the erection of single storey extension to front at 26 Spey Road, Aberdeen, AB16 6SE.

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 27 February 2024; (3) the decision notice dated 3 May 2024; (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) correspondence from Aberdeen City Council's Roads Development Management Team, Norma Anderson (neighbour) and Mastrick Community Centre Management Committee

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

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

- Design, scale and size of extension would disrupt building line;
- Extension was not modest subordinate porch extension and would include living accommodation, not being substantially glazed – and thereby contrary to the Householder Development Guide;

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

- Would set precedent for full width front extensions, resulting in loss of building line and impact on front elevations of terraces;
- Together with rear extension and outbuilding, would result in substantial development of plot (though not over 50% of front or rear area nor double original footprint);
- Contrary to NPF4 policies 14 – Design, 16 Quality Homes and LDP policies H1 – Residential Areas, D1 – Quality Placemaking;
- Solid side walls would impact negatively on neighbours, no. 28 would be impacted to front and rear within single room, due to extension; and
- Contrary to LDP Policy D2 – Amenity, in addition to above.

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

- Area contains other examples of front extensions breaking building line;
- Also examples of extending the canopies over doorways with roofs with 1m projection;
- The row of terraces was unique in area for long front gardens and small rear gardens, therefore modest front extension would not impact garden space or neighbours;
- Neighbours both sides supportive and considering similar – letter submitted by no. 24 – overshadowing would be minimal; and
- Referred to letter from Mastrick Community Centre submitted by applicant.

The Council's Roads Team had no objection as driveway would remain over 10 metres; there were no comments submitted by the Community Council and no representations were received.

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

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

Councillors Copland, Cooke and Lawrence 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 relating to the front of the property and the materials being used.

Members each advised in turn and unanimously agreed to reverse the appointed officer's earlier decision. Planning permission was therefore granted conditionally.

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

26 August 2024

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 layout of the application house and neighbours, in particular the long length of driveways, mean that the front extension proposed would not be overly dominant within the streetscene, nor would it have an unduly detrimental impact on the amenity of neighbours. The proposal was therefore considered acceptable in terms of Policy H1: Residential Areas and Policy D1: Quality Placemaking in the Aberdeen Local Development Plan 2023. Whilst there are tensions with the Aberdeen Planning Guidance: Householder Guide, the distance from public viewpoint was a material consideration that indicated the acceptability of the proposal.

CONDITIONS

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(01) DURATION OF PERMISSION

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- **COUNCILLOR CIARAN MCRAE, Chairperson**