

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 30 September 2024. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor McRae, Chairperson; and Councillors Boulton, Clark, Greig (for items 1 and 2), Lawrence and Thomson (for item 3).

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

### **26 BELVIDERE CRESCENT ABERDEEN - 240366**

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 of flat to Short Term Let accommodation (sui generis) with maximum occupancy of 6 people, at 26 Belvidere Crescent Aberdeen, planning reference 240366.

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 17 April 2024, (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.

Ms Greene then described the site and outlined the appellant's proposal. The application site comprised a ground floor flat in a traditional two-storey, semi-detached granite building. The building contained four flats, arranged in a tradition one-up, one-down flatted arrangement. The application property was located on the south side of Belvidere Crescent, approximately 60m north-east of the junction with Craigie Loanings and Hamilton Place. The property was surrounded by residential properties of a similar

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

style, which was typical of the street. Parking for the property was available on street by virtue of residents parking permit. The property comprised three bedrooms, one with en-suite, a kitchen and dining room, living room, separate bathroom and had an independent access entrance door from the front of the building. A rear outshot extension which was original to the property contains the kitchen-dining room, and outbuildings used for storage purposes accessed externally (for both flatted properties in the building). To the rear the garden ground was shared with the upper floor flat, including communal drying green and access paths, with dedicated areas for each flat. The rear curtilage was open plan with no subdivided areas and predominantly laid to grass with mature shrub and tree planting to borders.

In terms of the proposal, Ms Greene explained that planning permission was sought retrospectively 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 proposed maximum occupancy for the three-bedroom STL would be six persons at any one time, with a minimum stay duration of two nights. The property would be operated as an STL on a permanent basis and was understood to have been in operation for around eight years. Customers of the property would have access to one residents parking permit for use of the on-street parking facilities available to the front of the property and would be cleaned after each guest stay.

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

The comings and goings from the use of the flat by up to six transient occupants, alongside those from the cleaners after each visit would unacceptably intensify the use of the property over and above what would be expected from its use as a mainstream permanent residence. As such, the use of the property as a Short Term Let would present adverse harm to the amenity of the neighbouring residential property, to the detriment of their amenity in respect of privacy, noise transmission/ movement within the building, sense of security, and the enjoyment of private external amenity areas. The proposed use is therefore contrary to Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP) and Policy 30 (Tourism), paragraph (e) part i) of National Planning Framework 4 (NPF4).

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

- They were committed to low impact proposal and agree to the suggested changes from the planning officer, which included the installation of a fence in the shared garden;
- They stated that the use had been in operation over the last 8 years with occupancy on average at 40% and the average number of guests 4.4, with an average stay of 3.8 days;
- The property was more often empty than occupied;
- The property was rented mostly for families visiting for events and also golf tourists;
- Rosemount was an ideal location for facilities, with access to parks etc.

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

In terms of Consultations, Ms Greene advised that the Council's Roads Team had no objection; 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.

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

The Chairperson and Councillors Boulton, Clark, Greig 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 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:-

That taking into account that the property has been used as a short term let for the last eight years, that it had a separate entrance with no communal areas shared with other residents and with the attachment of a condition requiring a fence to be in place to designate a separate area of the garden for the resident of the upper flat, it was considered that the proposal would be acceptable in its impact on residential amenity and therefore complies with Policy H1 – Residential Areas, in the Aberdeen Local Development Plan 2023 (LDP) and Policy 30 e)i. – Tourism in National Planning Framework 4 (NPF4). The attachment of a condition limiting the permission to a temporary period of five years would ensure that the impact on availability of housing may be reassessed after that period and the proposal is therefore considered compliant with Policy 30 e)ii.

Although the flat was not within the city centre it was accessible via public transport and active travel, as well as close to facilities in Rosemount. There were tensions with Policy VC2 – Tourism and Culture, however, this was outweighed by the benefits to the local economy and the fact that the flat had operated as a short term let for approximately eight years without significant impact on neighbours.

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**  
30 September 2024

## **CONDITIONS**

This permission was 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) FENCING**

That the flat shall not be used for short term let accommodation unless there has been erected a fence and gate as shown on approved plan 'Updated site plan with boundary fence', or such other structures as may be subsequently approved through this condition, that effectively provide a private area of garden ground for the resident of the upper flat.

Reason – In the interests of residential amenity.

## **568 HOLBURN STREET ABERDEEN - 240503**

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 change of use of house in multiple occupation (HMO) to short term let accommodation with maximum occupancy of 6 people at 568 Holburn Street, planning reference 240503.

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

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 23 April 2024 (3) links to the plans showing the proposal and planning policies referred to in the delegated report; (4) general responses from Roads Development Management Committee and the Waste and Recycling Service and (5) the Notice of Review submitted by the agent.

Ms Greene then described the application site and noted that it comprised a flat used as a House in Multiple Occupation (HMO) in the first and second floors of a granite-built 2½ storey residential building containing two residential flats. The property had six bedrooms, two bathrooms, a lounge/dining room, a kitchen and a roof terrace. The building fronts Holburn Street to the southeast and the property had its own entrance door which fronted the road. There was a garden to the rear. The application supporting information indicated that this garden belongs to the downstairs neighbour, albeit there was direct access from the property to this garden and it was used for the storage of bins for the application property.

In regards to the proposal, Ms Greene advised that Detailed Planning Permission was sought for the change of use of the property from a House in Multiple Occupation to short term let accommodation with a maximum occupancy of six people at any given time. The application stated that guests would stay for a minimum of one week and a maximum of three weeks and that it would be let to single groups at a time. The property would be cleaned after each stay or upon request during stays and waste would be collected by staff on a weekly basis.

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 this House in Multiple Occupation to short term let accommodation with a maximum occupancy of six people would have an adverse impact on the amenity afforded to the neighbouring residential occupants in the area in terms of noise and their actual or perceived impact on safety and security. The proposal conflicted with Policies 14 (Design, Quality and Place) and 30 (Tourism) of National Planning Framework 4, as well as H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023. There were no material considerations that would justify approval.

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

- The flat had a twenty year history of being a Short Term Let;
- The property had been let most recently as a House in Multiple Occupation to students with no complaints;

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

- The previous owner obtained permission for the decking, and was unfair to refuse due to its use by guests; and
- The students had used decking without issue.

In terms of Consultations, no letters of representation were received and general comments were received from Waste and Recycling Service.

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

In terms of the further procedure, the Chairperson and Councillors Boulton, Clark, Greig 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.

**Members each advised in turn and by majority they agreed to uphold the officers earlier decision and refuse the planning permission. The Chairperson and Councillors Boulton and Clark voted to refuse the application and Councillors Greig and Lawrence voted to approve the application.**

In coming to their decision, the Local Review Body had regard to the provisions of the development plan as required by Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (as amended) and other material considerations in so far as these were pertinent to the determination of the application.

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

The change of use of this House in Multiple Occupation to short term let accommodation with a maximum occupancy of six people would have an adverse impact on the amenity afforded to the neighbouring residential occupants in the area in terms of noise and their actual or perceived impact on safety and security. The proposal conflicted with Policies 14 (Design, Quality and Place) and 30 (Tourism) of National Planning Framework 4, as well as H1 (Residential Areas), D1 (Quality Placemaking) and D2 (Amenity) of the Aberdeen Local Development Plan 2023 (LDP). The proposal would result in a tourist facility that would not be in the city centre and although the site is relatively close to a bus stop, there are tensions with Policy VC2 - Tourism and Culture, in the LDP, which sought to direct visitor facilities to the city centre. There were no material considerations that would justify approval.

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

**8 WOODBURN GARDENS ABERDEEN - 231043**

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 replacement dwelling house with integrated garage, formation of external stairs with handrail, alterations to boundary wall, erection of boundary fence, formation of hard surfacing/parking and associated works, at 8 Woodburn Gardens Aberdeen, planning reference 231043.

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 23 August 2023 (3) links to the plans showing the proposal and planning policies referred to in the delegated report; (4) general responses from Roads Development Management Committee and the Waste and Recycling Service, (5) one letter of objection and one neutral representation and (6) the Notice of Review submitted by the agent.

Ms Greene then described the application site and noted that it extended to 809m<sup>2</sup>, was located within an established residential area and accommodated a one-and-a-half-storey detached dwelling with an attached garage of granite construction, along with its front, side and rear curtilage. The footprint of the existing dwelling and garage extended to 102m<sup>2</sup> with other areas of development, i.e. hardstanding and external stairs extending to 177m<sup>2</sup>, the remainder of the site was garden ground.

The site sat to the north of Woodburn Gardens, characterised by granite faced dwellings with hipped and pitched roofs, chimney stacks and large rear gardens. The site itself was split level with the dwelling sitting at what was effectively road level and the rear curtilage sitting between 1.6m and 3m higher than the dwelling, increasing in height as you move towards the north east. Access to the rear garden was via an existing set of steps. To the south of Woodburn Gardens lay an area of open space and Walker Dam, designated as Green Space Network and a Local Nature Conservation Site (Walker Dam and Rubislaw Link) and to the south east and north west sits 6 and 10 Woodburn Gardens, respectively.

In terms of the proposal, Ms Greene indicated that Planning Permission was sought for the erection of a one-and-a-half storey, 5 bedroomed, detached, 'T' shaped dwelling with an integral garage, which would see the existing dwelling and garage demolished. The proposed dwelling would measure 7.7m in height to the ridge, 3.1m to the eaves and 13.7m in width. In terms of its length the main part of the dwelling would be 11.7m, however the rear projecting wing, which would sit perpendicular to the dwelling, would be a further 8.4m in length, resulting in a total length of 20m. The height of the rear

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

wing would sit slightly below that of the main part of the dwelling at 7.5m, but the eaves would sit higher with a difference of 1.3m between the two.

With respect to the mutual boundaries, the main dwelling would sit between 0.6m and 1.5m off the north west boundary, this distance increasing as you moved into the site. The south east corner of the dwelling would sit on the respective boundary, with the distance increasing to 2m as you move into the site. The rear wing, owing to its siting, would sit 2.5m and 5.6m from the north west and south east boundaries respectively. Given the level of development proposed, outwith the existing dwelling's footprint, there would be a requirement for extensive excavation of part of the rear curtilage.

The ground floor would accommodate a vestibule, three bedrooms (one of which could also be utilised as an office/study), a bathroom and plant/server room, while the rear projecting element would provide a three car garage. The first floor would accommodate two further bedrooms, one of which would be the master with en-suite and walk in wardrobe, a living room and guest WC, while the rear projecting element would accommodate a larder, formal dining room/TV room, kitchen/living area and a dog room. The dwelling had been designed so that the living accommodation had access directly into the rear garden ground with an area of decking leading directly from the kitchen/living room.

As well as an internal stair case, access between the ground and first floor would also be provided via a proposed lift. Access to the garage to the rear would be via a pend leading to an area of hardstanding, which sat below part of the first floor accommodation. Two sets of external steps were also proposed which would allow access between the new lowered ground level to the remainder of the rear garden. In terms of site coverage, the proposed dwelling extended to 200m<sup>2</sup>, this included the covered pend area as it formed part of the development. The other areas of development proposed, which included all areas of hardstanding, decking, steps and paths extended to 241m<sup>2</sup>, with the whole developed area extending to 441m<sup>2</sup> of the 809m<sup>2</sup> site.

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

The proposed replacement dwellinghouse represented over development of the site, both in terms of building footprint and massing and its siting is deemed to be inappropriate, overwhelming and does not lend itself to ensuring the relationship with the neighbouring properties is maintained and offers a jarring contrast with the remainder of Woodburn Gardens. The design was inappropriate when considering the character of the surrounding area and would result in a significant impact on the street scene. This was due to the overall height, the development spanning effectively the entire width of the feu, the presence of the pend and inappropriately designed dormers.

As such, the proposal failed to comply Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP) as the principle policy, as well as the associated Aberdeen Planning Guidance The Sub-division and Redevelopment of Residential



**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

30 September 2024

Curtilages and Policy D1 (Quality Placemaking) of the ALDP and Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4). Based on the information available, there will be a significant impact on the residential amenity of 6 and 10 Woodburn Gardens due to additional sunlight and daylight impacts caused by the proposed development at different times of the day on 20th March and October, as well as an impact on 12 Woodburn Gardens during the morning in October.

Further to this, there would also be harm caused to the amenity of 6 Woodburn Gardens due to the siting of the proposed dwelling on the application site and its closeness to the mutual boundary. There were also significant concerns that the proposed dwelling would result in a change to privacy and overlooking. Therefore, the proposal fails to comply with Policy H1 (Residential Areas) and Policy D2 (Amenity) of the ALDP and the associated Amenity & Space Standards Aberdeen Planning Guidance. Finally, the application has not satisfied Policy 1 (Tackling the Climate and Nature Crises), Policy 2 (Climate Mitigation and Adaptation), Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) and Policy 12 (Zero Waste) of NPF4, with respect to the demolition of the existing dwelling and the erection of its replacement. No information had been provided to justify the proposal in this regard and therefore the proposal cannot be considered to comply with the aforementioned policies.

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

- The proposal was for an energy efficient home;
- They required a house to accommodate elderly parents who required assistance and a home that was suitable for family needs;
- It would be more cost effective and efficient to demolish the existing dwelling and replace it, reusing materials where possible;
- There were no objections from the next door neighbouring properties;
- Less than 33% of the site would be developed and the proposed house was 163 metres squared; and
- The slope of the site allowed for garages to be cut in.

In terms of Consultations, one letter of objection was received and one neutral representation. General comments were received from the Waste and Recycling Service.

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

In terms of further procedure, the Chairperson and Councillors Clark, Greig 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. Councillor Boulton asked that a site visit be undertaken, however Members agreed by majority to proceed 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.

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**  
30 September 2024

Ms Greene responded to various questions from members.

**Members each advised in turn and unanimously 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 proposed replacement dwellinghouse represented over development of the site, both in terms of building footprint and massing and its siting is deemed to be inappropriate, overwhelming and does not lend itself to ensuring the relationship with the neighbouring properties is maintained and offers a jarring contrast with the remainder of Woodburn Gardens. The design was inappropriate when considering the character of the surrounding area and would result in a significant impact on the street scene. This was due to the overall height, the development spanning effectively the entire width of the feu, the presence of the pend and inappropriately designed dormers. As such, the proposal fails to comply Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2023 (ALDP) as the principle policy, as well as the associated Aberdeen Planning Guidance The Sub-division and Redevelopment of Residential Curtilages and Policy D1 (Quality Placemaking) of the ALDP and Policy 14 (Design, Quality and Place) of National Planning Framework 4 (NPF4).

Based on the information available, there would be a significant impact on the residential amenity of 6 and 10 Woodburn Gardens due to additional sunlight and daylight impacts caused by the proposed development at different times of the day on 20th March and October, as well as an impact on 12 Woodburn Gardens during the morning in October. There would also be harm caused to the amenity of 6 Woodburn Gardens due to the siting of the proposed dwelling on the application site and its closeness to the mutual boundary. There were also significant concerns that the proposed dwelling would result in a change to privacy and overlooking. Therefore, the proposal failed to comply with Policy H1 (Residential Areas) and Policy D2 (Amenity) of the ALDP and the associated Amenity & Space Standards Aberdeen Planning Guidance.

The application had not satisfied Policy 1 (Tackling the Climate and Nature Crises), Policy 2 (Climate Mitigation and Adaption), Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings) and Policy 12 (Zero Waste) of NPF4, with respect to the demolition of the existing dwelling and the erection of its replacement. Insufficient information had been provided to justify the proposal in this regard and therefore the proposal cannot be considered to comply with the aforementioned policies.

**LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**  
30 September 2024

- **Councillor McRae, Chairperson**