

LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 17 March 2025. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor McRae, Chairperson; and Councillors Alphonse (Reviews 1 and 3 only), Farquhar, Lawrence (Reviews 1 and 2 only) and Macdonald.

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

152 DON STREET, OLD ABERDEEN - ERECTION OF CLASS 1A (SHOPS) RETAIL UNIT, INSTALLATION OF FENCING WITH ASSOCIATED CAR PARKING, ACCESS, LANDSCAPING AND ASSOCIATED WORKS

1. The Local Review Body (LRB) of Aberdeen City Council met on this day to consider a review of the decision taken by an appointed officer under the Council's Scheme of Delegation for the refusal of the application for the erection of Class 1A (shops) retail unit, installation of fencing with associated car parking, access, landscaping and associated works at 152 Don Street, Old Aberdeen, 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 6 October 2023; (3) the Decision Notice dated 1 November 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/agent; and (6) consultee correspondence from the Council's Environmental Health Teams, Roads Development Management Team, Flooding Team, Contaminated Land Team, Developer Obligations Team, Waste Planning Team, Aberdeen International Airport, Old Aberdeen Community Council and eleven letters of representation.

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

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

- It has not been demonstrated that the proposed vehicular access and service access arrangements were acceptable, resulting in an objection by the Roads Development Management Team;
- The information submitted indicated that there were potential conflicts with the proposed vehicular access, service access and pedestrian crossing, with significant concerns relating to the HGV movements, which would be required to use reversing movements to manoeuvre into the service area and it was anticipated that this would result in obstructions to customer's movements, as well as impacting the flow of vehicles on Don Street itself, as vehicles wishing to enter the site would need to stop and wait on Don Street;
- Furthermore, an HGV would be required to cross the centre line of the junction with the public road and thus could not fully enter/exit the site perpendicularly as was required for access and egress to and from a public road; and
- The applicant had failed to amend the proposal to be acceptable and thus the application could not be supported.

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

- A legal opinion stating that a condition controlling hours of deliveries would meet the tests of the Circular 4/1998 and would be enforceable and reasonable;
- The proposal complied with policies in respect of biodiversity, Conservation Area, brownfield sites, sustainable transport, local living, town centres, retail, Zoning policy H1, land release policy and mixed use communities, design, parking, trees, including all matters other than servicing;
- Servicing vehicles would cross the pavement on Don Street only in forward gear, with good visibility, with reversing only within the car park itself. This approach was common in Aberdeen where there was no separate access for servicing; and
- Servicing may be dealt with by condition including hours of servicing and a management plan, suggesting the following:-
 "Prior to the occupation of the premises hereby approved, a delivery management plan describing matters to include frequency of deliveries, hours of servicing and safety measures to be adopted on site, shall be submitted to and approved in writing by the planning authority"
- Made reference to a number of previous cases, including:-
 - Countesswells Aldi – condition: servicing 0600 – 2200;
 - King Street (single exit/entry) – condition: 0700 – 1900 (0700-1600 Sun);
 - Port Glasgow decision: servicing outwith hours of drive thru;
 - Wellington Road Lidl – reversing manoeuvre;
 - Broomhill Road appeal (shop 334m2)– delivery management plan for vehicle type; and
 - Simpson Loan, Edinburgh appeal on Sainsburys delivery – to allow between 0700 – 2100 & 1000 - 1400 (Sun) – reasonable to condition management plan. Hours of opening also controlled for amenity.

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Ms Greene provided details in relation to the consultee responses and the representations which were also submitted and circulated.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant has expressed the view that there should be a site visit to view the servicing arrangements and a hearing would also assist.

The Chairperson and Councillors Alphonse, Farquhar, Lawrence 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 relating to similar cases which stipulated timings of deliveries/collections; the number of intended deliveries; condition relating to marshalling of manoeuvres; boundary and conservation locations; the Opportunity Site; and safety issues relating to pedestrian access to King Street, noting that a condition in this regard may be beneficial.

Members each advised in turn and unanimously agreed to overturn the appointed officers earlier decision. Planning permission was therefore approved 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 retail development hereby approved would be complementary to the residential area, contributing positively to the range of services in the area. Its built form would be acceptable in terms of the character of the surrounding area in which relatively modern residential buildings predominate. The site is on the edge of the Old Aberdeen Conservation Area and the proposal would preserve its character.

A condition to manage deliveries would ensure that servicing does not have an unduly negative impact on residential amenity or road safety and would take place when the shop is closed or likely to be quiet, also requiring measures to monitor timing of deliveries and to manage vehicle movements if the car park is in use.

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Suitable conditions are proposed to cover matters of pedestrian access, noise mitigation, external materials, lighting, solar panels, tree protection measures, landscape planting and installation of EV charging.

Pedestrian access would be considered acceptable with the condition mentioned above and a further condition requiring safety measures to be installed at the King Street access. Vehicular safety would be considered acceptable with the attachment of the condition restricting hours of deliveries to 7am until 8:30am and requiring supervision and monitoring of deliveries.

Taking into account the above, the proposal would comply with Policy R1: Residential Areas, T2: Sustainable Transport, T3: Parking, NE5: Trees and Woodland, D4: Landscape and WB3: Noise in the Aberdeen Local Development Plan 2023 (LDP) and Policy 7: Historic Assets, 13: Sustainable Transport, 14: Design, Quality and Place, 23: Health and Safety 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) DELIVERY MANAGEMENT PLAN

Prior to the development hereby approved being brought into use, a delivery management plan shall be submitted to and approved in writing by the planning authority. This shall include details of the frequency of deliveries, hours of servicing (which shall be no earlier than 0700 and no later than 0830 on any day), safety measures to be adopted on site, marshalling of traffic on site and monitoring and recording of deliveries in a log book. The premises shall operate only in accordance with the delivery management plan as so approved.

Reason: In the interests of residential amenity and road safety.

(03) PEDESTRIAN ACCESS FROM KING STREET

That the premises hereby approved shall not become operational unless there has been provided an access for pedestrians direct from King Street via an opening in the existing wall with safety measures such as staggered barriers to manage safe

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access, in accordance with plans and details that have been submitted to and approved in writing by the planning authority.

Reason: In the interests of pedestrian safety.

(04) NOISE IMPACT ASSESSMENT – MEASURES

a. That any required air conditioning condensers shall be only as detailed on the Proposed Site Plan 2000-SP-201N, with the sound power level of each unit not exceeding 70dB Lwa unless otherwise agreed in writing with the planning authority.

b. A 2m high Jackson Fencing Jakoustic Reflective Acoustic timber fence (or equivalent) shall be installed to two sides of the loading bay as shown on the Proposed Site Plan 2000-SP-201N, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential amenity.

(05) EXTERNAL LIGHTING

External lighting shall be installed only in accordance with the design specification within the Lighting Design Report (APC Technology Group; 22 July 2024).

Reason: In the interests of residential amenity.

(06) MATERIALS AND SOLAR PANELS

That external finishing materials and the layout and design of solar panels shall be only in accordance with details, including a glint and glare assessment and material samples where necessary, submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of residential and visual amenity.

(07) WAITING RESTRICTIONS ON DON STREET

That the store hereby approved shall not be operational unless there have been implemented on the east side of Don Street, measures to prevent the waiting of vehicles, in accordance with a scheme that has been submitted to and approved in writing by the planning authority.

Reason: In the interests of road safety.

(08) LANDSCAPE SCHEME

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That no works in connection with the development hereby approved shall take place unless a scheme of hard and soft landscaping works and biodiversity conservation, restoration and enhancement measures has been submitted to and approved in writing by the Planning Authority.

Details of the scheme shall include:

- (i) Existing landscape features, vegetation and biodiversity to be retained.
- (ii) The location of new trees, planting and other biodiversity measures.
- (iii) A schedule of planting to comprise species, plant sizes and proposed numbers and density.
- (iv) The location, design and materials of all biodiversity measures and hard landscaping works including any walls, fences, gates, street furniture, log piles and bug hotels.
- (v) An indication of existing trees, shrubs and hedges to be removed.
- (vi) A programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development or such other date as may be agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

In addition, prior to the commencement of the implementation of the approved scheme, detailed proposals for a programme for the long term management and maintenance of all the approved landscaped and open space areas within the development shall be submitted for the further written approval of the Planning Authority. Thereafter, all management and maintenance of the landscaped and open space areas shall be implemented, in perpetuity, in accordance with the approved programme."

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area and to ensure that the landscaping is managed and maintained in perpetuity.

(09) TREE PROTECTION

No development shall take place unless there has been erected and remains in place, tree protection fencing in accordance with drawing no. FFDS-2310-TP Revn A, and the Tree Survey by Astell Associates Ref. FFDS-2310-TR-A or such as other plan as is subsequently approved.

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Reason: In order to ensure tree health.

(10) ELECTRIC VEHICLE CHARGING

That the development hereby approved shall not be operational unless there have been provided fully operational electric vehicle charging facilities shown on the approved Proposed Site Plan SP201 Revision N, or such other plan as has been subsequently approved.

Reason: In the interests of climate change mitigation.

ADVISORIES

- (01) Environmental Health advise the operator to establish a written Noise Management Policy based on the recommendations of the Noise Impact Assessment by Clover Acoustics, July 2024 and the Quiet Deliveries Good Practice Guidance (Appendix A)
- (02) It is recommended that an Environmental Clerk of Works be employed to ensure that the site is clear of the presence of foxes prior to demolition – a fox den has been reported within the building. The building may also support nesting birds and in that case the building should be demolished only outside the bird nesting season which runs from 1st March to 31st August.

Councillor Alphonse took no part in the proceedings for the following review, for the reason that the property was located within her Electoral Ward.

SOUTH SMITHY COTTAGE, ELLON ROAD - ERECTION OF 1.5 STOREY DWELLING HOUSE WITH DETACHED DOUBLE GARAGE; ASSOCIATED ACCESS INCLUDING SPLITTING OF AN EXISTING CURTILAGE

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 erection of a 1.5 storey dwelling house with detached double garage; associated access including splitting of an existing curtilage at South Smithy Cottage, Ellon 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. He emphasised that the officer would not be asked to express any view on the proposed application.

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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 28 June 2024; (3) the Decision Notice dated 11 December 2024; (4) links to the plans showing the proposal and planning policies referred to in the draft delegated report; (5) the Notice of Review submitted by the applicant/agent; and (6) consultee correspondence from the Council's Environmental Health, Waste and Recycling and Roads Development Management Teams; and four letters of representation.

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:-

- Although location, layout, siting and design were acceptable, proposed access would result in loss of open space for Cloverhill. Therefore contrary to Policy 20: Blue and Green Infrastructure and NE2: Green and Blue Infrastructure in Local Development Plan; and
- Would result in loss of tree on south western boundary of site and a convoluted road access, not designed to satisfaction of Roads Team and close to residential properties. Contrary to Policy 6: Trees and 13: Sustainable Transport of National Planning Framework 4 and NE5: Trees, T2: Sustainable Transport of Local Development Plan 2023.

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

- Noted that the right of access formed part of the Cloverhill (Bancon) application 210884/MSC. But had not been honoured by developer and Council with fence forming a barrier;
- Route was the safest access;
- Loss of trees could be mitigated with replacement planting; and
- Proposed development complied with all other planning requirements.

Ms Greene provided information in relation to the consultee responses and the letters of representation, noting that the Roads Team had objected as the drive was too long with no passing places and was up a steep hill across a burn. Exiting access was on a road with reduced speed, inset large enough for passing and with visibility.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant had expressed the view that a site visit should be undertaken.

The Chairperson and Councillor Farquhar indicated in turn that they each had enough information before them. Councillors Lawrence and Macdonald indicated in turn that a site visit should be undertaken. As the Chair had the casting vote, the Committee therefore agreed that the review under consideration should be determined without any further procedure.

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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 a question from a member relating to the access road leading to the Cloverhill development and the maintenance of the driveway.

Members each advised in turn and the Chairperson and Councillors Farquhar and Lawrence were minded to reverse the appointed officer's decision and approve the application. Councillor Macdonald was minded to uphold the appointed officer's decision to refuse the application. By a majority of 3 to 1, the Committee agreed to reverse the appointed officer's earlier decision, therefore planning permission was approved 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 proposed house would provide a satisfactory level of residential amenity and private open space for occupants, would not impact unduly on the amenity of nearby residents and would be of an acceptable design quality, all in accordance with Policy H1: Residential Areas in the Aberdeen Local Development Plan 2023 and Policy 16: Quality Homes in NPF4. The loss of trees and open space in order to provide a safe vehicular access and egress to the site would be minor in the context of the wider Cloverhill development and public access into the affected area of space would remain, and its open nature maintained. Replacement tree planting of native species would provide mitigation for the tree loss so that the proposal would comply with Policy 6: Forestry, Trees and Woodland in NPF4 and NE5: Trees and Woodland, in the LDP. The proposed access would provide a safe route into the property.

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) TREE PLANTING

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All landscaping proposals shall be carried out in accordance with the approved scheme shown in the Tree Survey by EPIC Tree Care dated 26th March 2024 or such other as may be subsequently approved in writing through this condition, and shall be completed during the planting season immediately following the commencement of the development or as otherwise agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area and to ensure that the landscaping is managed and maintained in perpetuity.

(03) TREE PROTECTION

That no development shall take place unless there has been submitted to and approved in writing by the planning authority a tree protection plan showing the locations and details of tree protection fences to protect the root protection areas of trees and details of how the construction will take place in order to ensure protection of tree roots. Development shall not take place other than in accordance with such details as so approved and tree protection fences are in place on site.

Reason:

In the interests of protecting the existing trees to remain on site.

(04) TREE WORK

That any tree work which appears to become necessary during the implementation of the development shall not be undertaken without the prior written consent of the Planning Authority; any damage caused to trees growing on the site shall be remedied in accordance with British Standard 3998: 2010 "Recommendations for Tree Work" before the building hereby approved is first occupied.

Reason:

In order to preserve the character and visual amenity of the area.

(05) STORAGE OF MATERIALS

That no materials, supplies, plant, machinery, spoil, changes in ground levels or construction activities shall be permitted within the protected areas specified in the aforementioned scheme of tree protection without the written consent of the Planning Authority and no fire shall be lit in a position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason:

In order to ensure adequate protection for the trees on site during the construction of the development.

(06) NOISE BARRIER

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That the house hereby approved shall not be occupied unless there is in place on site acoustic fencing along the west and north boundaries of the site in accordance with the approved plan reference 101 C or such others as are subsequently approved through this condition.

Reason:

In the interests of residential amenity.

Councillor Lawrence took no part in the proceedings for the following review, for the reason that the property was located within his Electoral Ward.

HILLHEAD OF CLINTERTY, KIRKTON OF SKENE - TYREBAGGER ROAD - INSTALLATION OF REPLACEMENT SINGLE STOREY EXTENSION

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 installation of replacement single storey extension at Hillhead of Clinterty, Kirkton of Skene, Tyrebagger 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. 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 draft delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 27 March 2024; (3) the Decision Notice dated 14 January 2025; (4) links to the plans showing the proposal and planning policies referred to in the draft delegated report; and (5) the Notice of Review submitted by the applicant/agent.

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:-

- Combined impact of proposed and existing extensions would nearly double the footprint of the traditional cottage;
- Proposals would result in two of the original walls being wholly or partially obscured – more than half of the eastern elevation (ground floor);
- Extensions would dominate and overwhelm the original cottage, fail to respect character and appearance of the historic dwelling and surrounding area;

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- Negative visual impact on character of the Green Belt; and
- Contrary to Policy 7 (Historic Assets), 8 (Green Belt), 14 (Design), 16 (Quality Homes) of National Planning Framework 4 and NE1 (GB), D1 (Design), D6 (Historic Env) of Local Development Plan 2023.

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

- Footprint of the original house being nearly doubled: Household Developer Guidance advised "built footprint of a dwellinghouse should not exceed twice that of original dwelling" therefore as the extension would not result in this being breached, this was not a valid reason;
- On Small-scale re GB policy – GB policy deals with all sorts of developments in the GB (hotels, gold courses, quarries etc) therefore extension to house would always be considered small scale; and
- Length of elevation is 21m, proposal would replace a modern extension of 3.5m wide with more useable and energy efficient extension. Would look into applicant's private garden. Would be 6m wide, less than 1/3 of elevation and the length was reduced from 9m to 7.1m, with width having been reduced from 6.7 to 6m.

Ms Greene advised that there were no consultee responses or letters of representation submitted.

In terms of procedure by which the review would be conducted, Ms Greene advised that the applicant had expressed the view that a site visit should be undertaken.

The Chairperson and Councillors Alphonse, Farquhar 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.

Members each advised in turn and unanimously agreed to overturn the appointed officers earlier decision. Planning permission was therefore approved.

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 proposed replacement extension would be of good quality design, small-scale, subordinate to the existing house and would result in a built footprint of less than double that of the original house. There would be a limited impact on the

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surrounding landscape as the extension would be within the private garden area and well screened by trees. The proposal therefore generally accords with Policy 8 and NE1 on Green Belt in National Planning Framework 4 (NPF4) and the Aberdeen Local Development Plan 2023 respectively and Policy 14: Design, Quality and Place.

CONDITIONS

This permission is granted subject to the following condition.

(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.

- **COUNCILLOR CIARAN MCRAE, Chairperson**