

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee	
DATE	21 August 2014	
LEAD HEAD OF SERVICE Margaret Bochel		DIRECTOR Gordon McIntosh
TITLE OF REPORT	Planning Digest	
REPORT NUMBER	EPI/14/232	

1. PURPOSE OF REPORT

- 1.1 To advise Committee about recent appeal decisions, recent updates in Scottish Government Planning Advice and other aspects of the planning service.

2. RECOMMENDATION

- 2.1 To note the outcome of the appeal decision.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from these appeal decisions.

4. OTHER IMPLICATIONS

- 4.1 The report is for information and does not have any implications for any legal, resource, personnel, property, equipment, sustainability and environmental, health and safety and/or policy implications and risks.

5. BACKGROUND/MAIN ISSUES

Digest Item for Planning Committee of 21st August 2014

In February this year the Scottish Government (in association with the Commissioner on Ethical Standards in Public Life and COSLA) published formal "Guidance on Role of Councillors in Pre-Application Procedures" (included in the Agenda Papers). The guidance stems from Scottish Government's wish to ensure that councillors are confident and clear as to their roles and responsibilities when engaging at the pre-application stage on substantial development proposals, thus adding value to the process, while continuing to act within the terms of the Councillors' Code of Conduct.

The Scottish Government states that each local planning authority should establish its own pre-application procedures as a matter of priority. This digest item outlines the procedures to be put in place henceforth for Aberdeen City to comply with this Guidance.

Context

The responsibility which Councillors have to make reasonable decisions on planning matters is provided in the Councillors Code of Conduct. Once a planning application has been submitted the Code seeks to reinforce the principles of fairness and impartiality in relation to statutory processes. Councillors must not be biased, predetermined or to have been influenced by improper or inaccurate consideration.

The Code also makes it clear that it is appropriate for councillors to attend public meetings and events, including those relating to statutory and pre-application procedures.

As a matter of Scottish Government policy the early engagement of Councillors in pre-application discussion has been encouraged as part of the wider reform of the planning system. It is seen as a further example of front loading the system. The guidance emphasises that Councillor involvement at this stage in the planning process is not a substitute for formal consideration and decision-making on development proposals. Rather it is intended to better inform Councillors of proposals that may subsequently come before them, support a degree of certainty by enabling an early exchange of views and discussion of key issues that Councillors want to see addressed, and assist officers of the authority in negotiating on those issues.

Whilst taking part in these discussions Scottish Government guidance reminds Councillors that any opinions or views expressed must be made mindful of the operating requirements of fairness and impartiality and of keeping an open mind. It is also vital that any provisional view as to whether or not the authority might be minded in principle, to consider granting planning permission made only as part of the planning authority considering and forming such a provisional view.

This is seen as particularly important as any conduct inconsistent with these requirements may compromise the determination of any subsequent planning application.

Key Considerations for Pre-Application Discussion

The Scottish Government provides the following key considerations that they require authorities to take into account when they are deciding on what procedure they will adopt.

1. Emphasis should be given to providing meaningful guidance as part of a helpful service that adds value to the preparation of planning applications.
2. Councillors should be able to air points of view at the pre-application stage on the understanding that the general issues raised will be placed into the public domain.
3. Any procedures must be compliant with the requirement of the Councillors Code of Conduct.

4. Local Authorities should consider their own procedures in implementing this guidance and set out which Councillors are to be involved. This could be the relevant Committee which determines planning applications.
5. Procedures should be conducted in a consistent and transparent manner to avoid suspicion that councillors may have prejudiced their position.
6. This discussion should be held in public and a minute of the meeting should be made public.
7. The unique status of pre-application proposals should be clearly identified in any agenda and material relating to the process should be separated from other development management issues.
8. Any procedure introduced should be kept under review.

Proposed New Procedure

Taking into account the foregoing the following procedure will be implemented:-

1. a Pre-Application Forum will be established with its meetings held in open public session to enable discussion of all national and major development proposals.
2. the Forums will be held as soon as possible after the submission of a Proposal of Application Notice (POAN) for all national and major development proposals and, in all cases, prior to the lodging of any associated planning application (this allows a period of 12 weeks following submission of the POAN).
3. the members of the Planning Development Management Committee constitute the most appropriate members of such a Pre-Application Forum.
4. Ward Members for the Ward in which a specific pre-application proposal under discussion is located will be invited to the Forum but will be allowed to participate in the Forum only in relation to that specific pre-application proposal.
5. if a Forum is required it will take place after formal business of the Planning Development Management Committee is concluded – with a short recess recommended between the formal business and the Forum to emphasise the clear differences in status, process and procedure between the two meetings.
6. the prospective case officer for the proposal will produce a very brief report for the Forum outlining the proposal and identifying the main planning policies, material considerations and issues associated with it and the key information that will be required to accompany any application. The report will not include any evaluation of the planning merits of the proposal.
7. developers will be offered the opportunity of presenting their development proposal to the members of the Forum and there will be an opportunity for

Councillors to discuss these with them, to ask questions and indicate key issues they would like the applicants to consider and address in their eventual application/s

8. Members, either individually or collectively, can express concerns about aspects of any proposal that comes before the Forum but (to comply with the terms of the Code of Conduct) will not express a final settled view of any sort on whether any such proposal is acceptable or unacceptable.
9. A minute of the meeting will be produced and made publicly available.
10. Training sessions will be offered to Councillors to assist them in adjusting to their new role in relation to pre-application consultation and its relationship with the Code of Conduct.

Appeal Upheld

Bishops Court, 29 Albyn Place, Aberdeen: The erection of an extension to provide additional office accommodation and associated infrastructure works

Planning permission was refused by the Planning Development Management Committee on 13th February 2014 on the grounds that (1) the proposal, if approved, would be detrimental to and thus not preserve or enhance the character of Conservation Area 4 (Albyn Place/ Rubislaw) and the setting of the Category B listed buildings on the site and the adjacent site due to the excessive length, the loss of the sense of open space within the feu and the inappropriate design of the extension and its relationship to the existing building, contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policies D1 (Architecture and Placemaking) and D5 (Built Heritage) of the Aberdeen Local Development Plan and (2) the proposal, if approved, would set an undesirable precedent for similar developments in Conservation Area 4 (Albyn Place/ Rubislaw) that would significantly adversely affect and undermine the special character of the area.

The Reporter stated that due to the earlier change of use to offices and the construction of the associated extension and car park, the setting of the listed building has been altered very significantly in extent and character that the important and historic setting is now essentially related to the frontage of the building. Accordingly, the Reporter concluded that the additional extension would have little visual impact when viewed from Albyn Place, being “tucked-in” and thus would not have further impact on the setting of the listed building.

There Reporter was of the opinion that, although being a large structure, the extension would not overwhelm nor unduly dominate the listed building because of the limited visibility from Albyn Place, the existing extension obscuring much of the original rear elevation and its height would be lower than the listed building. The Reporter also concluded that the extension would not appear to result in an exceptionally high proportion of the built development on the plot and that a reasonable degree of openness would be retained. He also stated that he did not gain the impression that a rear building line, formal or informal, has been established and thus the proposal does not offend in

this respect. The Reporter decided that the design of the extension is satisfactory and accords with Policy D1 (Architecture and Placemaking) of the Local Development Plan.

The Reporter determined that the proposal would have little visual impact on the wider conservation area, being virtually unseen from Albyn Place and due to the presence of a substantial wall to the rear, thus preserving the character of the area, in compliance with Scottish Planning Policy and Policy D5 (Built Heritage) of the Local Development Plan.

Accordingly, the Reporter upheld the appeal and granted planning permission subject to two conditions.

The appeal decision letter can be viewed at:

<http://www.dpea.scotland.gov.uk/Document.aspx?id=208125>

6. IMPACT

The Scottish Government has stated that an effective planning service is fundamental to achieving its central purpose of sustainable economic growth. As such the information in this report relates to a number of Single Outcome Agreement Outcomes:

- 1 - We live in a Scotland that is the most attractive place for doing business in Europe;
- 2 - We realise our full economic potential with more and better employment opportunities for our people;
- 10 - We live in well-designed, sustainable places where we are able to access the amenities and services we need;
- 12 - We value and enjoy our built and natural environment and protect it and enhance it for future generations;
- 13 - We take pride in a strong, fair and inclusive national identity; and
- 15 - Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Public – The report may be of interest to the development community and certain matters referred to in the report may be of interest to the wider community.

7. BACKGROUND PAPERS

None.

8. REPORT AUTHOR DETAILS

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