

## LOCAL REVIEW BODY

ABERDEEN, 18 December, 2009. - MINUTE OF MEETING of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Dean, Chairperson; and Councillors Cassie and McCaig.

### REVIEW

**1. GREEN HEDGES, KINGSWELLS, ABERDEEN – ERECTION OF TWO DWELLINGHOUSES.** The Local Review Body of Aberdeen City Council met this day to review the decision taken by an appointed officer under the Council's Scheme of Delegation, to refuse the application (090970) for planning permission in respect of the erection of two dwellinghouses on the site of the existing property at Green Hedges, Kingswells, Aberdeen.

Councillor Dean, as Chairperson, following her opening statement in which she welcomed those in attendance, made reference to the review documents listed in the formal Notice calling the meeting, which had been circulated to the members of the Local Review Body in advance; and indicated that the application plans, which had not been circulated, were on display at the meeting. The Chairperson advised that the procedure to be followed would be outlined by the Assistant Clerk to the Local Review Body, after which the Council's Development Management Manager would provide a brief description of the application proposal and a reminder of the grounds of refusal, as identified within the Decision Notice. At this point the Chairperson declared that the Development Management Manager, although an employee of the planning authority, had not been involved in the consideration or determination of the application under review and was present to provide factual information and guidance only. She emphasised that the planning officer would not be asked to express any view on the proposed development.

The Local Review Body were then addressed by the Assistant Clerk who made reference to the Procedure Note which had been circulated as part of the meeting papers. In this regard it was made clear to members that their first task was to come to a decision on whether the review documents contained sufficient information for the case to be determined without further procedure. By way of assistance in arriving at that decision, the following points were highlighted:-

- (one) the regulations governing the local review process require that all matters which the applicant intends to raise in the review must be set out in or accompany the Notice of Review;
- (two) the clear intention of the Scottish Government, as reflected within the regulations approved by Parliament, is that Local Review Bodies will determine cases on the basis of what was before the appointed officer at

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- the time the decision was made and only in exceptional circumstances will new or additional matters be permitted to be taken into account; and
- (three) the recent modernisation of the planning system, which included revisal of the planning appeals process, removed the previous right, on the part of an applicant, to assist on a hearing and replaced that by giving the appellate body the power to choose a procedure which reflects the facts and circumstances of the case.

At the invitation of the Chairperson, the Development Management Manager as the advising planning officer, proceeded to describe the proposal for development with reference to the application plans on display. The officer indicated that the development proposed would involve the demolition of the existing house which was of a non-traditional appearance and construction and the erection of two new dwellinghouses within the existing residential curtilage; the removal of six trees, five of which required to be felled for management reasons and only one to accommodate development; and the creation of two new access points into the site from the old road and the closure of the existing site access from the main road. The officer confirmed that the application had been refused by the appointed officer on the ground that:-

“the proposal, if approved, would undermine the principles of controlling development and preventing sporadic housing in the green belt, leading to the erosion of the character of such areas and adversely affecting the landscape setting of the city contrary to the provisions of Policy 28 (Green Belt) of the Aberdeen Local Plan 2008 and Scottish Planning Policy 21 (Green Belts) by reason that the applicant has failed to demonstrate that the proposed additional house is required to provide residential accommodation for an essential agricultural or forestry worker who must be housed immediately adjacent to their place of employment.”

The Chairperson at this point invited the Local Review Body to consider the manner in which the review should be conducted and indicated that the preference of the applicants, as declared within the Notice of Review, was for the matter to be dealt with by way of a single hearing session.

**The Local Review Body were unanimous that the review should be determined without further procedure, being of the opinion that the issues to be considered were neither complex nor controversial.**

In the determination of the review, the Local Review Body had regard to:-

- (a) Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, which provides that where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material

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- considerations indicate otherwise;
- (b) the Green Belt designation of the application site and terms of Policy 28 of the Aberdeen Local Plan, which stipulates that no development will be permitted in the Green Belt for purposes other than those essential for agriculture, forestry, recreation, mineral extraction or restoration or renewal;
  - (c) the absence of any evidence from the applicants, in support of the case for an additional house in the Green Belt, that the second house was required for an essential worker;
  - (d) the terms of Section 2 of Policy 28, which sets out certain criteria which, if met, would justify development associated with existing activities in the Green Belt and against which the application proposal failed;
  - (e) the case being put forward by the applicants in support of their proposal that (one) the proposed development represents the sympathetic expansion of an existing cluster of dwellinghouses, (two) the development is entirely contained within the existing boundaries of Green Hedges and therefore represents the intensification of the existing use on a partially brownfield site which is permitted by the Local Plan, (three) the development does not compromise any National or Development Plan Green Belt policy objectives such as protecting the landscape setting of the city, (four) the surrounding area is not of a typical Green Belt character, with the Aberdeen Local Plan 2008 allocating large sites for residential and community uses, (five) the indicative site plan demonstrates that two dwellinghouses can be accommodated on the site and these will meet the standards for residential development set out in Aberdeen City Council's Supplementary Planning Guidance on the Sub-Division and Redevelopment of Residential Curtilages, and (six) the proposal will allow the sub standard existing property to be replaced by dwellinghouses of modern habitable standards and will remove an existing potentially hazardous vehicular access.

The conclusion arrived at by the Local Review Body was that clear tension with the development plan position existed and that there were no material planning considerations which outweighed that position.

**The Local Review Body resolved:-**

that for the reasons outlined, the decision of the appointed officer to refuse the application be upheld.

- **KATHARINE DEAN, Chairperson**