

7 APPEAL DECISIONS (AN124-2011)

- (a) LOCATION: TAYMILLS, 19 BROWN STREET, DUNDEE
PROPOSAL : LISTED BUILDING CONSENT FOR ALTERATIONS TO FORM 25 STUDENT STUDIO APARTMENTS

Reference is made to the decision of the Council on 21 January 2011 under powers delegated to the Director of City Development, to refuse listed building consent for the above proposal. The Council considered that proposals would adversely affect the historic character and architectural features of the A listed building thus failing to satisfy the requirements of Policy 59 (Alternative Uses of Listed Buildings) and Policy 60 (Alterations to Listed Buildings) of the Dundee Local Plan Review 2005 as well as the requirements of Section 14 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 as amended.

The decision was appealed by the applicant under the provisions of Section 18 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The appeal was determined by written representations and the decision was received by the Council on 5 July 2011. Copies of the Reporter's decision letter have already been circulated to Members by e-mail.

The Reporter ALLOWED the appeal and granted listed building consent subject to conditions.

In reaching his decision the Reporter considered that the conversion of the listed building could be appropriately managed so as to safeguard its special interest, particularly since its interior has already been compromised by recent alterations. He noted that Historic Scotland did not object to the proposals and that the development would bring both gains and loses in the visibility of historic features. He felt the new use would secure the future of the building and that provided they were carried out sensitively the works would have minimum impact on its historic character.

The appellants also lodged a claim for expenses against the Council arguing that it had been unreasonable in its consideration of the application. The Reporter concluded that the Council had behaved appropriately in its consideration of the application and the conduct of the appeal and declined to make an award of expenses.

(b) LOCATION: TAYMILLS, 19 BROWN STREET, DUNDEE
PROPOSAL: CHANGE OF USE TO FORM 25 STUDENT STUDIO APARTMENTS

Reference is made to Article I(a) of the Minutes of the Development Management Committee of 17 January 2011 wherein the above proposal was refused planning permission because the Council considered that:

- 1 the development was contrary to Policy 9 of the Local Plan because the applicants had not justified the additional student accommodation on an unallocated site and had not provided a transport assessment;
- 2 the proposals would adversely affect the Category A listed building; and
- 3 the proposed apartments would be afforded a low level of environmental quality due to poor air quality and noise disturbance.

The decision was appealed by the applicant under the provisions of Section 47 and Schedule 4 of the Town and Country Planning (Scotland) Act 1997.

The appeal was determined by written representations and the decision was received by the Council on 5 July 2011. Copies of the Reporter's decision letter have already been circulated to members by e-mail.

The Reporter ALLOWED the appeal and indicated that he was minded to grant planning permission subject to conditions and the conclusion of a legal agreement restricting the use of the apartments to students.

In reaching his decision the Reporter considered that the apartments were larger than most student apartments and were in accordance with Policy 9 of the Local Plan being close to both universities, of satisfactory design, compatible with existing uses and made adequate provision for car parking and secure bike storage.

Given the small number of units involved he did not consider that the proposal would lead to an oversupply of student accommodation in the city. He considered that the conversion of the listed building could be appropriately managed so as to safeguard its special interest, particularly since its interior has already been compromised by recent alterations.

Finally, he concluded that the provision of secondary glazing and a mechanical ventilation system would provide an adequate standard of amenity for residents. However, in order to accord with Policy 9 of the Local Plan he required the applicant to enter into a Section 75 obligation with the Council before granting permission.

The appellants also lodged a claim for expenses against the Council arguing that it had been unreasonable in its consideration of the application. The Reporter concluded that the Council had behaved appropriately in its consideration of the application and in the conduct of the appeal and declined to make an award of expenses.

(c) LOCATION: LAND SOUTH OF RIVERSIDE AVENUE, DUNDEE
PROPOSAL: ERECTION OF 102 BEDROOM HOTEL

Reference is made to Article I(b) of the Minutes of the Development Management Committee of 13 December 2010 wherein the above proposal was refused planning permission because the Council considered that:

- 1 the proposal was contrary to the Structure Plan and the Local Plan because the applicants had not fully demonstrated that a sequential approach had been applied to the site selection and as a result the development would have an adverse impact on the city centre;
- 2 the use of the site for purposes outwith business and industry contravened the Local Plan; and
- 3 the proposal represented an overdevelopment of the site contrary to the Local Plan.

The decision was appealed by the applicant under the provisions of Section 47 and Schedule 4 of the Town and Country Planning (Scotland) Act 1997.

The appeal was determined by written representations and the decision was received by the Council on 26 May 2011. Copies of the Reporter's decision letter have already been circulated to Members by e-mail.

The Reporter DISMISSED the appeal and refused planning permission.

In reaching his decision the Reporter accepted that the existing consent for a 60 bedroom hotel on the site had to be taken into account but considered that the current proposals were of a significantly different scale and character and that such a proposal would make a considerable contribution to the vitality and viability of the city centre. He concluded that the applicants had not correctly applied the sequential test, that the proposal contravened the Development Plan, that the Central Waterfront improvements deserved to be supported and the policies protecting the city centre should not be undermined.

He did not accept that contravention of employment land policies was an issue due to the previous consent for a hotel on the site. He agreed with the Council's position that whilst the design of the hotel was innovative, the scale of the hotel was excessive for the site.

Having concluded that the proposal contravened the Development Plan he did not consider that the material considerations of the existing permission for a 60 bedroom hotel or the economic impacts of the proposed development were of sufficient strength to support the development. In any event he considered that the economic benefits would also flow from a city centre hotel which would have the added benefit of reinforcing the role of the city centre.

(d) LOCATION: UNIT A1, KINGSWAY WEST RETAIL PARK
PROPOSAL: CONSENT TO DISPLAY ADVERTISEMENT

Reference is made to the decision of the Council on 21 January 2011 under powers delegated to the Director of City Development, to refuse advertisement consent for the above proposal. The Council considered that the proposed advertisement would be detrimental to the visual amenity of the area detracting from the uniformity of the signage evident in the Retail Park and therefore contrary to Policy 63 (Advertising) of the Local Plan.

The decision was appealed by the applicant under the provisions of Section 182 of the Town and Country Planning (Scotland) Act 1997 and Regulation 21 of the Town & Country Planning (Control of Advertisements) (Scotland) Regulations 1984 .

The appeal was determined by written representations and the decision was received by the Council on 9 June 2011. Copies of the Reporter's decision letter have already been circulated to Members by E Mail.

The Reporter ALLOWED the appeal and granted advertisement consent.

In reaching his decision the Reporter noted that the sign had already been erected. He felt that if the appellants erected their sign on the gantry above the entrance (as is the case with most other retail units) then either the two signs would be out of scale or if reduced in size would appear fussy and difficult to read. He felt that since the sign was on what would otherwise be a long blank fascia it would be in reasonable balance with the sign above the entrance and would not be incongruous in a retail park that contains a variety of different signage. He did not consider that approving the sign would set a precedent for other advertising in the retail park or that there was any public safety issue.