

### 3 PLANNING APPEAL DECISIONS (AN139-2005)

(a) UNITS 7 & 8 BLOCK 1A DUNSINANE INDUSTRIAL ESTATE, DUNDEE - ENFORCEMENT NOTICE APPEALS (2) IN RESPECT OF THE ALLEGED UNAUTHORISED USE FOR SALES AND STORAGE

It is reported that under powers delegated to the Director of Planning and Transportation Enforcement Notices dated 1st November, 2004 were served on both the owner and occupiers of the above premises which were being used for the sale and storage of carpets without the required planning permission. A separate appeal was lodged against the refusal of the Council to grant planning permission for the continuation of the use. A report on the outcome of this appeal is elsewhere on the agenda. The Notices required the cessation of the use for these purposes within a period of 90 days of their taking effect.

Both Notices were appealed under the provisions of Section 130 of the Town and Country Planning (Scotland) Act 1997. The grounds of appeal are as stated in Paras 6 and 7 of the decision notices copies of which can be found in the Members' Lounges.

The appeals were determined by written representations and the decisions were received by the Council on 14th February, 2005. The Reporter considered that the determining issues were whether the grant of planning permission for the development would accord with the provisions of the development plan and, if not, whether an exception to these provisions is justified by other material considerations which in this case relate to the provisions of the local plan review and the various submissions for and against approval.

In summary, the Reporter concluded that granting permission would be contrary to Policy S20 of the adopted Dundee Local Plan 1998 (out of centre retailing); the use of industrial land for retailing had the potential to prejudice the vitality of existing shopping centres and retail parks; the proposals did not appear to comply with the Finalised Dundee Local Plan Review Policy 25 relating to the revitalisation of the estate. The Reporter considered that this revitalisation should be achieved through the preparation of a masterplan and that "the Council's overall objectives for the estate should not be prejudiced by piecemeal decisions allowing the use of individual units for retailing".

Accordingly, the Reporter **DISMISSED** the appeals and upheld the Enforcement Notices.

(b) 46 THOMSON STREET - ALLEGED UNAUTHORISED USE OF DWELLINGHOUSE AS A HOUSE IN MULTIPLE OCCUPATION

Under powers delegated to the Director of Planning and Transportation an Enforcement Notice dated 25th October, 2004 was served on the owner of the above premises which was allegedly being used as a house in multiple occupation without the required planning permission. (On 27th September, 2004 the Council had refused planning permission for the continued use of the property as an HMO). The Notice required the reduction in the numbers of residents living together in the appeal property to no more than 5, within 89 days of its taking effect.

The Notice was appealed under the provisions of Section 130 of the Town and Country Planning (Scotland) Act 1997. The grounds of appeal are as stated in Paras 4 (viz that planning permission should be granted) of the decision notice copies of which can be found in the Members' Lounges.

The appeal was determined by written representations and the decisions were received by the Council on 22nd February, 2005. The Reporter considered the determining issues were whether the grant of planning permission for the development would accord with the provisions of the development plan and if not whether an exception to these provisions is justified by other material considerations. The Reporter also had regard to the statutory duty to consider whether or not the alleged use preserved or enhanced the West End Lanes Conservation Area.

In summary, the Reporter concluded that the operation of the HMO did not comply with Policies H1 and H14 of the adopted Dundee Local Plan 1998 (lack of satisfactory refuse storage, drying areas and on street parking). Policies 1 and 11 of the Finalised Dundee Local Plan Review reflected the adopted policies and were material considerations. Both policies were breached. The Reporter took into account submissions by the appellant concerning the possible demolition of the garage attached and another appeal decision at Tait's Lane (determined by the same Reporter). However, the Reporter found these arguments not to be of sufficient weight to persuade him to grant planning permission contrary to the provisions of the development plan.

Accordingly, the appeal was **DISMISSED**.

- (c) UNIT 7 BLOCK 1A DUNSINANE AVENUE, DUNSINANCE INDUSTRIAL ESTATE, DUNDEE  
- CHANGE OF USE FROM WORKSHOP TO SALES AND STORAGE

Reference is made to the decision of the Council on 1st September, 2004, under powers delegated to the Director of Planning and Transportation in consultation with the Convener, to refuse planning permission for the change of use of the above premises from workshop to sales and storage because it considered that the proposals were contrary to Policies EU2 and S20 of the adopted Dundee Local Plan 1998 as specified in Para 4 of the appeal decision notice.

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 14th February, 2005. The decision on this appeal was incorporated within the decision notice for a parallel appeal of an Enforcement Notice. A comprehensive report on that decision is to be found elsewhere on this agenda. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be similar to those relevant to his determination of the enforcement appeals and his conclusion was that planning permission should be refused for the reasons specified in his report.

Accordingly the appeal was **DISMISSED**.