

## 6 APPEAL DECISION (AN150-2014)

LOCATION: THE GLASS PAVILION, THE ESPLANADE, BROUGHTY FERRY, DUNDEE

PROPOSAL: ERECTION OF 2 STOREYS OF RESIDENTIAL ACCOMMODATION (6 APARTMENTS) ABOVE EXISTING CATEGORY C LISTED RESTAURANT (PLANNING AND LISTED BUILDING APPLICATIONS)

Reference is made to Articles I(a) and (b) of the Minutes of the Development Management Committee of 21st October, 2013 wherein the above proposal was refused planning permission and listed building consent contrary to the Director's recommendation because the Council considered that:

- 1 The planning application contravened Policies 4, 55 and 60 of the then adopted Dundee Local Plan Review 2005 and the equivalent policies in the Proposed Dundee Local Development Plan due to the lack of justification for flats, insufficient parking and overlooking of adjoining residents and that the excessive scale and massing of the development would not preserve the architectural or historic interest of the listed building and would not respect its setting.
- 2 The listed building application was for a development of an excessive scale and massing which would not preserve the architectural or historic interest of the listed building and would not respect its setting.

The decisions were appealed by the applicant, the appeals were determined by written representations and the decision was received by the Council on 5th February, 2014. Copies of the Reporter's decision letter have already been circulated to Members by e-mail.

The Reporter DISMISSED the appeals and refused planning permission and listed building consent.

In reaching his decision the Reporter considered that the determining issues were:

- a the effect on the listed building taking into account the statutory duties; and
- b the suitability of the site for the proposed flatted development.

He noted that the conversion and extension of the listed building to a restaurant retained its listed characteristics including its striking horizontal emphasis. He felt this character would be lost due to the heaviness of the extensions on either side and above the listed building. Even though they would be set back from the building he felt the original building would still be overwhelmed and its restful quality would be lost. He therefore concluded that the development would fail to preserve the building's features of special architectural interest.

He agreed that the effect on the streetscene would be significant and that the proposal would erode the remaining open character of the Esplanade. He considered a previous permission for holiday apartments but felt that that consent involved a simpler and less obtrusive design. He therefore concluded that the proposal contravened Policy 7 of the Dundee Local Development Plan.

In terms of Policy 9 he was not persuaded that parking would be inadequate, he felt that any potential overlooking could be resolved by screening (and in any event the affected building was flatted and not protected by Policy 9) and he considered that adequate amenity space would be provided.

He found no material considerations that would justify approving the development contrary to the development plan.

Claims for expenses were made by the Council and the appellants. He found that the appellants had not acted unreasonably (allegation that they had submitted over voluminous, over repetitive, erroneous and irrelevant material). However, he considered that the Council had acted unreasonably in terms of one of the allegations made (failing to recognise that the property to the west was flatted and wrongly invoking Policy 9 in this context) and therefore made a partial award of expenses against the Council.