

#### **4 APPEAL DECISION - NEW HOUSE IN GARDEN GROUND AT 5 THE ESPLANADE, BROUGHTY FERRY, DUNDEE (AN199-2011)**

Reference is made to Article I (a) of the minute of meeting of this Management Committee of 18th April, 2011 wherein the above proposal was refused planning permission contrary to the Director's recommendation for the following reasons:

1. The proposal is contrary to criteria A and C of Policy 15 of the Dundee Local Plan Review 2005 as the design of the proposed house does not respect the surrounding buildings and the final proportion of ground covered by hardstandings amounts to more than 40% of the original house and garden. There are no material considerations that would justify approval contrary to the provisions of the Development Plan.
2. The proposal is contrary to Policies 55 and 61 of the Dundee Local Plan Review 2005 as the quality of the design is not of an acceptable standard and the scale and massing of the proposed dwelling do not preserve or enhance the character of the Broughty Ferry Conservation Area. There are no material considerations that would justify approval contrary to the provisions of the Development Plan.
3. The approval of this application would be contrary to the statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the proposed house does not blend in with surrounding properties and will have an adverse impact on the character of the Conservation Area.
4. The proposal would remove the opportunity for off-street parking for the subdivided house at 5 The Esplanade at a location where existing off-street parking is extremely limited and this would detrimentally impact on the residential amenities enjoyed by surrounding occupiers.

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 18th November, 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 considered that in principle the erection of a house on the site would be capable of preserving the Conservation Area. However, he felt that a number of aspects of the proposal in front of him contrasted with adjoining buildings, including the arched driveway under the building, the protruding element of the front elevation, the extensive use of render on the walls and the design of the asymmetrical rear elevation. In particular, he felt that the height of the protruding feature on the front elevation coupled with the dormer windows would add to its massing and create a sense of visual dominance in the street scene. He therefore concluded that the development would neither preserve nor enhance the appearance of the Conservation Area.

In terms of Development Plan compliance he stated that the above conclusion meant that the proposal conflicted with Policies 61 (Conservation Areas) and 55 (Design Quality). He considered that the original house at 5 The Esplanade and all its original garden ground (including the application site) formed a single planning unit and that Policy 15 (Garden Ground) applied and for design reasons the proposal conflicted with 15(A) and also there was a minor conflict with 15(D) (extent of buildings and hardstandings). Again, he considered that the design of the proposal led to conflict with Policy 4, as did the overlooking of neighbours, but that the level of parking provision for the new house was satisfactory. He therefore considered that the proposal would not be consistent with the Development Plan.

Turning to other material considerations he considered that the proposal would have only a small effect in exacerbating current parking congestion. He felt that providing some extra garden ground for 5 The Esplanade, the neglected appearance of the application site or Scottish Planning Policy encouragement for infill development did not in themselves provide a justification for approval of the proposal.

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

carried out a proper assessment of the merits of the application and declined to make an award of expenses.