

3 PLANNING APPEAL DECISIONS (AN203-2014)

(a) LAND TO WEST OF ST MARTIN CRESCENT, DUNDEE - PROPOSAL: ERECTION OF 25 HOUSES AND ANCILLARY WORKS

Reference is made to Article I (a) of the Minutes of the Development Management Committee of 20th January, 2014 wherein the above proposal was refused planning permission contrary to the Director's recommendation. The Council considered that inadequate information had been submitted to demonstrate that the development would not exacerbate existing flooding problems in the area contrary to the provisions of the Development Plan, that the proposal would increase traffic congestion and affect safety and that there was no capacity within the local primary school to accommodate the additional pupils generated by the proposed development.

The decision was appealed by the applicant, the appeal was determined by written representations and the decision was received by the Council on 22nd August, 2014. Copies of the Reporter's decision letter have already been circulated to Members by e-mail.

The Reporter ALLOWED the appeal and granted planning permission subject to conditions.

In reaching her decision the Reporter noted that the site was allocated for housing in the Local Development Plan but not for release until the period 2020-2024 and that as it was not a brownfield site, its early release was contrary to Policy 8. However, she felt that a small release of 25 units would not prejudice the wider housing delivery strategy in Dundee, or that the proposal would not be in accordance with Scottish Planning Policy.

She considered that the development met the criteria set out in Policy 7 on High Quality Design and that although it failed to meet all of the criteria in Policy 9, as not all of the proposed gardens would comply with the policy average, all were in excess of the minimum size and some appeared to be considerably larger.

In terms of Policies 41 and 42 on Flooding she noted that there was no evidence before her from any party that the site was in a medium or high risk category and that there was no objection from SEPA. She concluded that given that there was no evidence that the site was in a high risk area where the policy would apply, and the appellant had complied with the consultation requirements, with no adverse comments arising, she was satisfied that the appellant had fulfilled the requirements of Policy 41.

She noted that a Flood Risk Assessment had been submitted for the overall site (including the site of the current application) in 2006 and that other plans had been submitted with the application and subsequently on appeal. She concluded that despite the FRA and all drainage plans not being submitted formally with the planning application, there was sufficient information in relation to flooding and drainage before the Council to determine the planning application. Furthermore, she concluded that the drainage scheme as proposed by the appellant should have the effect of managing overland flow from the field and so managing the potential impact on existing and future residents of St Martin Crescent subject to the imposition of an appropriate condition.

In terms of traffic congestion and safety she concluded that the development could comply with Policy 55 on accessibility for new developments subject to an appropriate condition and that although the TA which was produced for the overall development in 2008 and subsequently produced at appeal should probably have been submitted with the planning application, its submission now was an appropriate response and it established that the proposed development complied with Policy 55. She did not agree that a dedicated footpath to the school was required as the proposed development was likely to generate approximately 9 pupils for the primary school (the Director had recommended approval subject to a planning obligation for this footpath).

On the issue of school capacity she noted that both parties agreed that if placing requests were managed, then the school would effectively operate at 92% capacity, and the 9 pupils expected to be produced from the proposed development could be accommodated.

She therefore concluded that although the proposal did not comply with the Development Plan, granting early consent for a small number of houses was justified by material considerations.

The Council made a claim for an award of expenses stating that the appellants appeal statement was misconceived and unreasonable and that it led to an additional amount of officer time in addressing the matters of roads and flooding and that this time spent had incurred expense on the part of the Council. The Reporter concluded that the appellants had not acted unreasonably and declined to make an award of expenses.