

5 APPEAL DECISION (AN205-2012)

Location: Land to the West of 17 Elcho Drive, Broughty Ferry, Dundee
Proposal: Change of Use from Open Space to Garden Ground

Reference is made to Article II(C) of the minute of meeting of this Committee of 17 September 2012 wherein the above proposal was refused planning permission contrary to the Director's recommendation because the Council considered that:

- 1 The proposed change of use would result in the loss of an area of public open space which makes an important contribution to the amenity of those using the adjacent footway and cyclepath.
- 2 The proposed change of use would result in a more intensified use of this area of ground to the rear of properties on Glendevon Way, resulting in an adverse impact on the environmental quality enjoyed by local residents by reason of noise contrary to Policy 1 of the adopted Dundee Local Plan Review 2005 and there are no material considerations that would justify a departure from the Development Plan in this instance.

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 November 2012. 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.

In reaching his decision the Reporter considered that the determining issue was whether, in the context of the provisions of the Development Plan, a change of use to garden ground was justified, particularly taking into account the amenity of adjacent residential property.

He considered that the appeal site was an important component of the buffer area between the A92 Arbroath Road and the houses to the south but did not perform an active open space function. He felt it was not visually prominent and was difficult to access. He therefore concluded that its incorporation into the garden of 17 Elcho Drive would not alter the basic function of the land.

He saw no reason why 17 Elcho Drive, having a larger garden than its neighbours, would lead to higher noise levels and did not think the change of use would lead to a loss of privacy. He concluded that there would be no conflict with Policy 1 of the adopted Local Plan. In granting consent he imposed conditions requiring the use of the land to be limited to purposes incidental to the enjoyment of the house at 17 Elcho Drive, requiring the noise attenuation bund to be retained in perpetuity, requiring the trees not to be felled or lopped without the consent of the Council and any boundary treatment to be agreed with the Council.