

#### 4 PLANNING APPEAL DECISIONS (AN230-2009)

- (a) 56 SEYMOUR STREET - CONSTRUCTION OF A NEW 3 BEDROOM, 1.5 STOREY DETACHED DWELLINGHOUSE WITH 2 NEW PARKING SPACES IN THE GARDEN GROUND

Reference is made to Article I(b) of the minute of meeting of the Development Quality Committee of 18th May, 2009, wherein the above proposal was refused planning permission because the Council considered the development would result in a poor standard of amenity for both the proposed dwelling and the existing dwelling by virtue of the mitigation measures necessary to avoid overlooking and access problems associated with a new dwelling in this location.

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 21st October, 2009. 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 the development would breach Policy 15(c) of the Local Plan because 59% of the site would be covered by buildings and hardstandings and that proposed screen fences would be unacceptably close to ground floor habitable room windows. He also considered that it breached Policy 4 because it failed to meet the 18 metre privacy distance from the neighbouring house to the south east and would overlook the garden of that house. Even with mitigation measures such as lowering the finished floor level and screening, he considered that the sense of intrusion would not be overcome. He also considered that the provision of the new access to the proposed house would create intermittent noise and disturbance for occupiers of the existing dwelling.

The Reporter did not consider the proposal to be of exceptional quality such as to justify a departure from the Local Plan policies.

The applicants put forward a claim for an award of expenses based on the Council's unreasonable behaviour in refusing permission but the Reporter concluded that the Council had not acted unreasonably and therefore declined to make an award.

- (b) COACH HOUSE, 474 PERTH ROAD - ERECTION OF DWELLINGHOUSE WITHIN GARDEN GROUND OF EXISTING PROPERTY

The above planning application was received by the Council on 17th April, 2009. It had been intended to refuse it under powers delegated to the Director of City Development due to concerns about the failure to respect the low density character of the area and the setting of the West End Suburbs Conservation Area contrary to the requirements of Policies 15(d) and 61 of the Dundee Local Plan Review 2005.

However, prior to a decision being made, the applicant appealed the non-determination of the application 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 21st October, 2009. 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 concluded that the use of artificial slate would not meet the requirements for high quality design set out in Policies 4 and 15 of the Local Plan, that the development would not respect the low density character of the area contrary to Policy 15 and that the house would be too close to trees that were worthy of retention. On this basis he also concluded that the development would harm the character and appearance of the Conservation Area contrary to Policy 61.

## (c) GARDEN GROUND AT 9 PARK ROAD - ERECTION OF DETACHED DWELLINGHOUSE

Reference is made to the decision of the Council on 3rd April, 2009 under powers delegated to the Director of City Development, to refuse planning permission. The Council considered that the form and style of the house did not blend in with surrounding properties, that the development provided inadequate garden ground and failed to respect prevailing densities contrary to the requirements of Policies 4 and 15 of the Dundee Local Plan Review 2005.

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 October, 2009. 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 the development would have a cramped appearance that would detract from the pleasant low density suburban character of the area and that this impact would be exacerbated particularly when viewed from the north where the proposed gabled roof would contrast with the modest hipped roofs on nearby properties. The proposed house would be much larger than the existing garage on the site and would result in the loss of trees that contribute to the character of the area. He concluded that the development would conflict with the requirement in Policy 15 of the Local Plan for high quality design that reflects prevailing densities.

He also concluded that the garden ground for the new house failed to meet the standards in Policy 4 and that there was no justification to depart from the Plan and that the inadequacy of the garden ground reinforced the conclusion that the site was too small to accommodate the development proposed. He did not agree that examples of other infill developments provided by the appellant were similar to the current proposal and judging the current appeal on its merits concluded that the development would detract unacceptably from the visual amenity of the locality and would provide insufficient private useable garden ground contrary to Policies 4 and 15 of the Local Plan.

## (d) 209 BROOK STREET, BROUGHTY FERRY - USE OF LAND TO THE FRONT AND REAR OF CAFE NERO AS OUTDOOR SEATING AREA

Reference is made to the decision of the Council on 4th June, 2009 under powers delegated to the Director of City Development, to refuse planning permission. The Council considered that the outdoor seating area to the rear of 209 Brook Street had an adverse impact upon the level of environmental quality afforded to neighbouring flatted dwellings by virtue of loss of privacy, loss of security and noise disturbance contrary to the requirements of Policy 1 of the Dundee Local Plan Review 2005.

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 9th October, 2009. Copies of the Reporter's decision letter have already been circulated to Members by e-mail.

The Reporter **UPHELD** the appeal and granted planning permission.

In reaching his decision the Reporter considered that the windows on the upper floor flats were sufficiently distant from the seating area such as to protect privacy, that occasional use of the communal close as a fire escape would not significantly affect the amenity of residents in terms of security or privacy and taking into account the restricted hours of operation, noise would not be a problem. He accepted that the use would change the character of the area but not to an unacceptable degree at this location in a busy town centre. He agreed with the Council that the seating area to the front of the premises was acceptable. A condition restricting hours of operation from 9.00 am to 6.00 pm was imposed by the Reporter.