

4 PLANNING APPEAL DECISIONS (AN232-2002)

(a) 9 LARGO PLACE, BROUGHTY FERRY, DUNDEE - EXTENSION TO DWELLINGHOUSE

Reference is made to Article III(e) of the Minutes of the Development Quality Committee of 3rd December, 2001, wherein the above proposal was refused planning permission because the Committee considered that the proposal would be detrimental to the residential amenity of the occupiers of the neighbouring property by virtue of overshadowing, contrary to Policy H4 of the adopted Dundee Local Plan 1998. The decision was taken contrary to the recommendation of the Director of Planning and Transportation.

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 16th July, 2002. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposal conflicts with Policy H4 on the grounds specified.

In summary, the Reporter concluded that the design of the proposed extension was satisfactory in the context of the existing property and its neighbour and that daylight to the neighbouring property would not be adversely affected. Loss of sunlight would be confined to part of the afternoon only and to the car port area and not the neighbouring garden. Although the proposal would be contrary to Policy H4 in terms of car parking loss, an exception was justified as the driveway would continue to remain available for off-street parking in this cul-de-sac location.

Accordingly, the appeal was **UPHELD** with conditions that the development be commenced within five years and that notwithstanding the provisions of the permitted Development Order, no windows or additional door openings are installed in the gable walls of the extension without planning permission being sought.

(b) 306 PERTH ROAD, DUNDEE - INSTALLATION OF AUTOMATIC TELLER MACHINE

Reference is made to Article VII(g) of the Minute of meeting of this Committee of 24th September, 2001, wherein the above proposal was refused planning permission because the Council considered that the proposal would be likely to encourage very short stay parking of vehicles adjacent to the site to the detriment of traffic safety, pedestrian safety and the free flow of vehicles in a location which is subject to periodic traffic congestion. The decision was taken contrary to the recommendation of the Director of Planning and Transportation.

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 July, 2002. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposal prejudiced traffic and pedestrian safety; and whether the proposal would preserve or enhance the character of the conservation area.

In summary, the Reporter concluded that the proposed ATM would be compatible with the commercial character of this part of Perth Road and would preserve and enhance the conservation area, both in itself and cumulatively, the proposal would not reduce existing levels of traffic safety or be detrimental to the free flow of traffic or unduly interfere with pedestrian flows. The Reporter noted that this was an instance where the planning system should not be used to secure objectives more properly achieved by other legislation.

Accordingly, the appeal was **UPHELD** and planning permission granted, with the condition that the development should commence within five years in accordance with Section 58(1) of the Act.

(c) 60-62 NETHERGATE, DUNDEE - CHANGE OF USE OF SHOP TO INDOOR AMUSEMENT ARCADE

Reference is made to Article I(n) of the Minute of meeting of this Committee of 25th February, 2002, wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policy 26 (Amusement Arcades) of the Dundee Local Plan 1998 as the site immediately adjoins residential property and is in close proximity to two churches. The decision was taken contrary to the recommendations of the Director of Planning and Transportation.

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 13th August, 2002. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposal conflicted with the policies of the Local Plan; if not whether an exception to the provisions of the Plan were justified by other material considerations; and whether the proposal preserved or enhanced the character or appearance of the conservation area.

In summary, the Reporter concluded that Policy S5 of the Local Plan (uses acceptable in ground floor shop type premises) and S26 (amusement arcades) do not support the proposal. The Reporter found no evidence that the change of use would adversely affect the vitality or viability of the City Centre; that the proposal would not materially affect the amenity of residential neighbours and the surrounding area and as such, would not be inconsistent with the purpose of Policy S26. Turning to Government guidance in NPPG8, the Reporter again found that the proposal would not be likely to cause in terms noise and disturbance to nearby residents. The Reporter was satisfied that the proposal would not have an adverse impact on the conservation area.

Accordingly, the appeal was **UPHELD** with conditions relating to timescale for commencement (five years); hours of operation; types of gaming machines; sound insulation scheme; installation of self-closing doors; and window display.

(d) LAND TO NORTH AND WEST OF 105 CHARLESTON DRIVE - CAR SALES YARD

Reference is made to Article VII(c) of the Minute of meeting of this Committee of 24th September, 2001, wherein the above proposal was refused planning permission because the Council considered that the proposal would adversely impact on the environmental quality of the area and that the proposed new access would lead to further vehicular congestion at a busy section on Charleston Drive to the detriment of road traffic and pedestrian safety.

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 7th August, 2002. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposal conflicted with the policies of the Development Plan and if so, whether there were any material considerations indicating that permission should exceptionally be granted.

In summary, the Reporter concluded that, to the extent to which they were relevant, the proposal accorded with the Development Plan. Turning to other material considerations, the Reporter found that although less than ideal, there is likely to be scope for an access arrangement that need not seriously affect road safety or traffic congestion. Turning to amenity considerations the Reporter considered that the amenity of nearby residents would be compromised as a result of the potential which the design of the proposal would give for overlooking, light penetration (car headlights), noise intrusion and general disturbance. Although the Reporter agreed that it would be beneficial if this neglected and overgrown site was to be put to a positive alternative use, this did not outweigh the residential amenity concerns outlined above.

Accordingly, the appeal was **DISMISSED**.

(e) 51 BEACH CRESCENT, BROUGHTY FERRY, DUNDEE - CHANGE OF USE FROM SOCIAL CLUB TO PUBLIC HOUSE

Reference is made to Article III(e) of the Minute of meeting of this Committee of 3rd December, 2001, wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policy EU27 of the adopted Local Plan (presumption in favour of non-residential uses where residential amenity is not disturbed) in that existing residents' amenity would be adversely affected by noise and disturbance particularly at night.

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 15th August, 2002. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposal conformed with Policies LT2 (maximising of tourism potential), LT8 (licensed premises), EU27 (as above) and BE11 (new developments in conservation areas) of the adopted Dundee Local Plan 1998, and in the event of serious tensions emerging whether approval should be granted in the light of other material considerations.

In summary, the Reporter concluded that although the proposal complied with Policies LT2 and LT8 there was serious tension with Policies LT8 and EU27 on residential amenity grounds (likely noise and disturbance by service vehicles in close proximity to residences including a nursing home). The proposal was seriously inconsistent with the Development Plan on these grounds that refusal of the application was warranted. The Reporter considered that Policy BE11 had limited applicability in this case.

Accordingly, the appeal was **DISMISSED** and planning permission refused.