

1 PLANNING APPEAL DECISIONS (AN255-2002)

(a) LAND TO EAST OF PEEP O'DAY LANE/EAST DOCK STREET - PROPOSED EXTERNALLY ILLUMINATED 96 SHEET ADVERTISING HOARDING (3M X 12M)

Reference is made to the decision of the Council on 23rd April 2002 under powers delegated to the Director of Planning and Transportation, in consultation with the Convener, to refuse Advertisement Consent because it was considered that the proposal was contrary to the aims of adopted Local Plan Policies BE6 (amenity considerations in relation to advert hoardings) and BE23 (City gateways).

The decision was appealed by the applicant under the provisions of Section 182 of the Town and Country Planning (Scotland) Act 1997 and Regulation 21 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

The appeal was determined by written representations and the decision was received by the Council on 30th August 2002. A copy of the decision letter can be found in the Members' Lounges.

In summary the Reporter considered that the site was located in an almost wholly commercial area containing a number of hoarding displays. The site is relatively small and overgrown and levels would indicate that this hoarding would not be as dominant a feature as other hoardings in the area and will have a relatively "neutral effect" in a "relatively unobtrusive location". Accordingly the Council's arguments that the proposal was contrary to the provisions of the local plan were not accepted.

The Reporter noted that when the vacant British Gas site is redeveloped the hoarding will require to be removed.

Accordingly the appeal was **UPHELD** with a condition indicating that the rear of the display should be screened from view to the satisfaction of the Council.

Commentary. This is a disappointing decision in that it may be considered the Reporter failed to sufficiently take into consideration a strategic viewpoint and in particular the objectives which lie behind the City Gateway and Ambassador Routes projects. All advertisement consents carry an automatic 5 year lifetime under the provisions of the Regulations (Regulation 18). However, given his remarks about the removal of the hoarding it is disappointing that a more restrictive condition was not imposed.

(b) 127 CLEPINGTON ROAD - CHANGE OF USE FROM SHOP TO HOT FOOD TAKEAWAY

Reference is made to Article III(g) of the minute of meeting of the Development Quality Committee of 3rd December 2001 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policies LT8 and LT9 of the Dundee Local Plan 1998 by virtue of the location of the application site in close proximity to residential property and the likely amenity problems that would result.

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 27th 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 was consistent with the development plan; and if not whether an exception to those provisions was justified by other material considerations.

In summary the Reporter concluded that the proposal conflicted with the provisions of both local plan policies, because the site would be located approximately 13 metres from flats to the west; the business was intended to close at 11.00 pm instead of 6.00 pm (Policy LT9(A)); and did not comply with the food sales criteria specified in Policy LT9(B). These circumstances would likely result in an adverse impact on the amenity of nearby residents by virtue of noise disturbance and odour nuisance.

The Reporter found that no material considerations were powerful enough to set aside the provisions of the development plan in this instance.

Accordingly the appeal was **DISMISSED**.

(c) 8 NETHERGATE - CHANGE OF USE FROM CLASS 1 RETAIL TO PUBLIC HOUSE - ANCILLARY ACCOMMODATION

Reference is made to Article VIII(S) of the minute of meeting of the Development Quality Committee of 29th April 2002 wherein the above proposal was refused planning permission because the Committee considered that the proposal would be contrary to Policy H1 of the adopted Local Plan (increased traffic movement, parking, servicing, smell, noise and disturbance during evening hours); and that the applicants had failed to demonstrate a clear strategy for the comprehensive redevelopment of the property. 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 18th September 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 complied with the relevant provisions of the development plan; if not, whether an exception to the plan is justified by other material considerations; and whether the proposal will preserve or enhance the character of appearance of the conservation area.

In summary, the Reporter concluded that, given the strategic policies of the Structure Plan and the more specific Secondary retailing Policy of the adopted Local Plan (S5) the proposal complied with the development plan. It was considered that the proposals complied with Policy LT8 (as revised) of the Local Plan in relation to locational criteria for licensed premises; and that given the location of other leisure and entertainment uses in the City Centre it was considered that this proposal would not "constitute a concentration of this use in the area to the detriment of residential amenity". The Reporter considered that the development of the property would avoid the property remaining empty, being vandalised and falling into disrepair. The development would enhance the conservation area in accordance with the provisions of the Local Plan.

Accordingly the appeal was **UPHELD** with conditions relating to noise attenuation and secure cycle parking and the phasing of the use of the public house relative to the completion of works common to both the public house use and the upper floor residential use.

(d) 3, 7, 9, 13 AND 15 WHITEHALL STREET - CHANGE OF USE FROM RETAIL TO PUBLIC HOUSE (UNIT 1, ALL FLOORS) AND FROM RETAIL TO CLASS 3 RESTAURANT (UNITS 3 AND 4, BASEMENT AND GROUND FLOORS)

Reference is made to Article VIII(U) of the minute of meeting of the Development Quality Committee of 29th April 2002 wherein the above proposal was refused planning permission because the Committee considered that the proposal would be contrary to Policy H1 of the adopted Local Plan (increased traffic movement, parking, servicing, smell, noise and disturbance during evening hours); and that the applicants had failed to demonstrate a clear strategy for the comprehensive redevelopment of the property. 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 17th September 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 complied with the relevant provisions of the development plan; if not, whether an exception to the plan is justified by other material considerations; and whether the proposal will preserve or enhance the character of appearance of the conservation area.

In summary, the Reporter concluded that the proposal complied with the relevant policies of the Structure Plan and Local Plan including Local Plan Policy S5 (secondary retailing area) and Policy LT8 (also as revised); that the proposal complied with the guidance provided in National Planning Policy Guideline 8; that the amenity issues raised by third parties bore little weight; that the proposal would result in the property being occupied thus protecting it from vandalism and falling into further disrepair; and that the development would enhance both the character and appearance of the City Centre Conservation Area.

Accordingly the appeal was **UPHELD** with conditions relating to the provision of detail regarding the servicing of the restaurants and noise insulation and attenuation.