

5 PLANNING APPEAL DECISIONS (AN28-2007)

(a) 101 CAMPERDOWN ROAD, DUNDEE DD3 8RF - CHANGE OF USE FROM SNOOKER CLUB TO PUBLIC HOUSE

Reference is made to the decision of the Council on 20th March 2006, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposed change of use would be contrary to Policy 53 of the Dundee Local Plan Review 2005. Residential properties are located within 30 metres of the proposal site and the environmental qualities of those residents would be detrimentally affected from disturbance from noise associated with the proposed public house.

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 27 December 2006. Copies of the decision letter can be found in the Members' Lounges.

The Report considered the determining issues to be whether

- i the proposal was consistent with the provisions of the development plan; and if not
- ii whether an exception to the provisions of the plan were merited by other material considerations.

In summary the Reporter concluded that contrary to the views of the appellant, the proposal could not mere be described as a change in the function of one of the rooms in the premises. In line with the Council's case the Reporter found that the entire nature of the property and its operation would change placing the adjoining houses at potential risk of significant loss on amenity through noise and other general disturbance normally associated with the operation of a public house use. He found the proposal contrary to Policy 53.

No other material considerations were drawn to the Reporter's attention sufficient to overturn the provisions of the development plan in this case.

Accordingly the appeal was **DISMISSED**.

(b) 78 VICTORIA ROAD, DUNDEE, DD1 2NY - CHANGE OF USE FROM GROCER'S SHOP TO HOT FOOD TAKEAWAY

Reference is made to Article 1(d) of the minutes of meeting this Committee of 24th April 2006 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policies 1 and 53 of the Adopted Local Plan Review 2005 in that it would have a detrimental impact on the amenity of residential areas in terms of noise, smell, parking and road 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 11th December 2006. Copies of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether:

1. the proposal would preserve the building (Category B listed) or its setting or any features of special or historic interest it possesses; or
2. whether the proposal is consistent with the relevant provisions of the development plan; and
3. Whether an exception to the provisions of the development plan are justified by other material considerations.

In summary the Reporter concluded that from the information contained in the application it was not possible to assess the impact of the proposal on the listed building. The proposal was found to be

contrary to Policies 1 and 53 of the Dundee Local Plan Review 2005 (traffic/pedestrian conflict and noise and its location within 30 metres of housing).

The Reporter took account of other matters drawn to her attention by the appellants but found that there were no material considerations which would lead to the setting aside of the development plan in this case.

Accordingly the appeal was **DISMISSED**.

(c) 82 LAWSIDE ROAD, DUNDEE DD3 6BA - ERECTION OF 8 HOUSES

References is made to the decision of the Council on 21st August 2006, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposal was contrary to Policy 4 of the Dundee Local Plan Review 2005 (less than 30% of the houses would have more than 75 Square metres of private garden ground; adjoining houses would suffer from overlooking and loss of privacy; substandard design quality).

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 27 December 2006. Copies of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether:

- i the proposal complied with the provisions of the development plan, and if not
- ii whether an exceptional approval was merited by other material considerations.

In doing so the reporter paid particular attention to considerations of residential amenity and the likely affect of the proposals on the street scene.

In summary the Reporter concluded that the use of balconies in this case could not overcome the proposals' failure to meet minimum standards in terms of minimum garden size; overlooking of adjoining properties would occur from first floor windows and particularly from balconies; the proposal would have poor townscape qualities and the proportions of the design and use of materials were poorly handled.

Accordingly the appeal was **DISMISSED**.

(d) LOCATION: 222 BLACKNESS ROAD, DUNDEE
PROPOSAL: CHANGE OF USE FROM SHOP TO DWELLING FLAT

Reference is made to the decision of the Council on 8th August 2006, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposal was contrary to Policy 4 and Appendix 1 of the Dundee Local Plan Review 2005 in that the proposal failed to make provision for car parking, garden/drying area and that it would have an internal floor area of less than 60 square metres. The Head of Environmental Health and Trading Standards expressed concerns over potential noise disturbance from road traffic.

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 December 2006. Copies of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether

- i the proposal was consistent with the relevant provisions of the development plan; and if not
- ii whether an exception to those provisions was merited by other material considerations.

In summary the Reporter concluded that even considering the small extent of the flat's proposed floor space this was considered acceptable in the circumstance of similar flats in the vicinity. It was not

clear to the Reporter as to whether the rear amenity area which was not laid out could be attached to the dwelling. Although he recognised that on street parking during the evening could be difficult he took into account the availability of public transport in discharging this requirement of Policy 4. The Reporter recognised the Council's concerns relating to noise and considered that this could be covered by condition. Although the Reporter did not explicitly conclude whether or not the proposal complied with Policy 4 he was minded to grant conditional planning permission.

Accordingly the appeal was **UPHELD** with conditions relating to the submission of details concerning the availability of external amenity land and proposals for improvement works; details of the windows of north facing rooms to ensure noise attenuation.