

5 ENFORCEMENT NOTICE APPEAL: 45 TRAQUAIR GARDENS, WHITEHAZEL PARK, DUNDEE: UNAUTHORISED ERECTION OF CONSERVATORY, PORCH AND GARDEN FENCES (AN30-2003)

Reference is made to Article 1(h) of the minutes of meeting of this Committee of 25th February, 2002 wherein, the proposal for the porch was refused planning permission because the Council considered that the proposal would have an adverse impact on the appearance of the house and the surrounding area due to its poor design, contrary to Policy H4 of the Dundee Local Plan 1998. The porch had already been erected without planning permission as had a conservatory and boundary fencing.

Under powers delegated to the Director of Planning and Transportation an Enforcement Notice was served in respect of all the unauthorised developments.

The Notice was appealed by the applicant under the provisions of Section 130 and Schedule 4 of the Town and Country Planning (Scotland) Act 1997 and subsequently appealed.

The appeal was determined by written representations and the decision was received by the Council on 29th November, 2002. A copy of the decision letters relating to the appeal and the appellant's unsuccessful claim for an award of expenses can be found in the Members' Lounges.

Having concluded that a breach of planning control had occurred, the Reporter concluded on each of the elements of the breach as follows:

- (a) **Rear Garden Fence:** Its 2.7m height is visually detrimental to the appearance of adjoining properties. This aspect of the Enforcement Notices was confirmed.
- (b) **Rear Conservatory:** Whilst accepting that its design and appearance were not of "high standard", the structure did not take up more than 50% of the rear garden area and the difference in levels and rear fence means that it is not visually prominent when viewed from the north. This aspect of the Enforcement Notice was deleted and planning permission granted.
- (c) **Front Garden Fence:** The Reporter considered this fence, at 1.3m high, to be visually intrusive in its location and considered a fence no higher than 1.0m to be more appropriate. This aspect of the Enforcement Notice was confirmed.
- (d) **Front Porch:** The Reporter drew attention to other porches in the area specifically mentioning Carberry Crescent but which are mostly constructed of facing brick or render/roughcast. Some examples are clad in timber. Whilst acknowledging that the porch is not "the ideal solution", he considered that there was insufficient justification to refuse planning permission in the face of the criteria set out in Policy H4 of the Local Plan. This aspect of the Enforcement Notice was deleted and planning permission granted.

Accordingly, certain aspects of the Enforcement Notice were upheld and others deleted with planning permission being granted for the conservatory and porch.

Commentary: The appellant made a claim for the award of expenses against the Council alleging bias, collusion, personal harassment and intimidation and the provision of false information. The report, in emphatic terms, rejected all these claims finding none to have any basis in facts presented to him. There was "no evidence whatsoever of unreasonable behaviour on the part of the Council". The claim was dismissed.

Turning to planning considerations, it is disappointing that the Reporter did not find it possible to support the Council in its efforts, supported by Policy H4 of the Local Plan to promote best practice in the design and location of developments, whatever their scale.