

### **3 PLANNING APPEAL DECISIONS (AN33-2010)**

(a) 27 MAYFIELD GROVE - APPLICATION FOR CONSENT TO FELL A SYCAMORE TREE SUBJECT TO TPO 01/2006

This agenda note relates to the decision on an appeal under Section 47 of the Town and Country Planning (Scotland) Act 1997 against the refusal of consent to fell a sycamore tree protected by Tree Preservation Order 01/2006. The tree is adjacent to the applicants' house and they stated that leaf litter and twigs dropping from trees were causing them significant problems.

The appeal was determined by written representations and the decision was received by the Council on 30th December, 2010. Copies of the decision notice have already been circulated to Members by e-mail.

The Reporter DISMISSED the appeal.

In reaching her decision the Reporter concluded that the stances of trees made a significant contribution to the landscape character and visual amenity of the locality. She noted that there was no evidence that the tree was not healthy or worthy of protection and considered that it continued to make a positive contribution to the character and amenity of the area.

She did not feel that the amenity reasons for protecting the tree were outweighed by the seasonal nuisance commonly experienced in any location close to trees. She felt that any safety issues could be addressed by regular maintenance and pruning of the tree and that its removal could leave the remaining trees more susceptible to wind damage.

She concluded that the proposal to fell the tree was contrary to Policy 72 of the Local Plan, that the reasons for protecting the tree remained relevant and that other material considerations did not justify consent.

(b) BUGHTIES NURSING HOME, 76 CAMPHILL ROAD, BROUGHTY FERRY, DUNDEE  
INSTALLATION OF REPLACEMENT WINDOWS ON LISTED BUILDING

This agenda note relates to the decision on an appeal under Section 34 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 against a Listed Building Enforcement Notice served by the Council which required the removal of 28 unauthorised windows and a door and their replacement with timber sash and case windows and a door of traditional appearance.

The appeal was determined by written representations and the decision was received by the Council on 18th January, 2010. Copies of the decision notice have already been circulated to Members by e-mail.

The Reporter DISMISSED the appeal.

In reaching his decision the Reporter concluded that the use of applied astragals on some of the windows and the use of PVC windows in other areas had a significantly detrimental affect on the architectural character of the listed building. He concluded that even if it could be established that the window replacement works were immediately necessary in the interests of health and safety, there is no evidence that replacement windows incorporating true astragals could not have been used. He concluded that the steps required by the Council to remedy the breach were not excessive and he placed an additional requirement that windows which originally had diamond traceried panels should have the same feature provided in their replacements.

In the case of a door and two windows where it could not be established whether they had previously been replaced before the building was listed in 1975, the Reporter allowed them to be retained and granted listed building consent for them.

Finally, the Reporter gave the appellants 30 days to submit a specification and detailed drawings of the windows to the Council and a further 90 days following the Council's approval of the specification and drawings to install the windows.

(c) LAND TO WEST OF 18 CAMPHILL ROAD, BROUGHTY FERRY  
PROPOSED THREE-BED DETACHED ENERGY CONSERVATION HOUSE

Reference is made to Article I(f) of the Minutes of the Development Quality Committee of 17th August, 2009 wherein the above proposal was refused planning permission because the Council considered that:

1. the proposal is contrary to Policy 4 of the Dundee Local Plan Review 2005 due to the density of the development, which does not reflect the prevailing densities and the lack of privacy within the garden ground area due to overlooking from surrounding properties. There are no material considerations in these circumstances that would justify a departure from the provisions of the development plan;
2. the proposal is contrary to criteria D, E and G of Policy 15 of the Dundee Local Plan Review 2005 due to the prevailing densities in the area not being respected, the proposed development projecting beyond the building line of the original house at 18 Camphill Road and the breach in a stone boundary wall along Camphill Road. There are no material considerations in these circumstances that would justify a departure from the development plan; and
3. the proposal is contrary to Policy 61 of the Dundee Local Plan Review 2005 and Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the density of the development and the breach in a stone wall detract from the character of the Conservation Area. There are no material considerations in these circumstances that justify a departure from the development plan.

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 19th January, 2010. 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 density issues, potential overlooking and the slight projection in front of 18 Camphill Road did not justify refusal of the application. His principal concern related to the need to demolish part of the boundary wall fronting Camphill Road to achieve vehicular access. He considered that this demolition would disrupt the integrity and character of the wall and that of the conservation area contrary to Policies 15(g) and 61 of the Local Plan. Whilst he welcomed the innovative design and energy conservation measures he felt these issues did not outweigh the harm identified with regards to the adverse impact on the character and appearance of the conservation area.