

3 PLANNING APPEAL DECISIONS (AN462-2005)

- (a) 14A DALHOUSIE ROAD, BROUGHTY FERRY - REPLACEMENT OF SALES BUILDING; ADDITIONAL CAR PARKING AND REVISED ARRANGEMENTS FOR PETROL SALES

Reference is made to Article 1(y) of the minute of meeting of this Committee of 6 December 2004 wherein the above proposal was refused planning permission because the Council considered that the proposals contravened retailing policies S20 and S23 of the (then) adopted Dundee Local Plan 1998; and Policy 44 of the (then) Finalised Dundee Local Plan Review.

The decision was appealed by the applicant under the provisions of Section 47 and Schedule 4 of the Town & Country Planning (Scotland) Act 1997.

The appeal was determined by written representations and the decision was received by the Council on 1 November 2005. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposals were consistent with the provisions of the development plan (ie the Dundee Local Plan 1998) and if not whether other material considerations indicated that a departure from those provisions was appropriate.

In summary, the Reporter concluded that the proposals amounted to more than might be described as a "small scale extension". However, taking into account the terms of Policies S19 and S23, and the reasoned justification for Policy S20 in relation to the development of corner shops, the Reporter's concluded differently from the Council in his interpretation of the meaning of these policies. The Reporter concluded that the proposals did not conflict with his interpretation of the policies.

The Reporter concluded that it was "difficult to accord the..... (Finalised Dundee Local Plan) Review..... much weight" and that in terms of national policy there appeared to be no argument suggesting that the proposals threatened any existing shopping provision. He found that there was "certainly scope for pedestrian/vehicle conflict but that this was inherent in any filling station forecourt area." The layout of the proposals dealt with this issue.

Accordingly, the appeal was **UPHELD** with conditions relating to hours of operation, delivery times, noise attenuation from plant; contamination; landscaping; material samples and ranges of goods to be sold.

- (b) LAND TO WEST OF LOONS ROAD AND NORTH OF HIGH STREET, LOCHEE - INSTALLATION OF 13.5m SLIMLINE MONOPOLE MAST, ANTENNAE AND METER CABINET.

Reference is made to Article 1(a) of the minute of meeting of this Committee of 31 January 2005 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policy 31 of (the then) adopted Dundee Local Plan 1998 as the proposal was likely to detract from the visual amenity of the area and because the applicant had failed to demonstrate that all existing alternative sites cannot be the subject of mast sharing. Also the Council considered that the proposals were contrary to similar provisions of (the then) draft Finalised Local Plan Review 2005 for similar reasons.

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 3 November 2005. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposals accorded with the provisions of the development plan and, if not, whether approval was warranted by other material considerations.

In summary, the Reporter concluded that in respect of the criteria specified in Policy BE31 of the Dundee Local Plan (the then adopted plan) he considered the application site not to be suitable for a free standing pole as proposed taking into account the attractiveness of the street and the landscaping despite accepting that there was a considerable amount of street furniture already present. There would also be the potential for mast sharing from the proposal. An unacceptable level of intrusion would be likely to occur.

The Reporter did not accept that there were no alternative sites available. As a more acceptable alternative, the Reporter favoured locations on top of nearby tower blocks. However, it was acknowledged that it is the Council's policy as landlord not to allow further telecommunications apparatus to be established in such locations. The Reporter considered that this placed operators in the position of having to consider less appropriate locations at street level which were subject to criticism in the planning process.

Accordingly, the appeal was **DISMISSED**.