

## **2 APPEAL DECISIONS (AN479-2003)**

### **(a) 53 CLEPINGTON ROAD - PROPOSED ERECTION OF HOUSE**

Reference is made to the decision of the Council on 24th February 2003 under powers delegated to the Director of Planning and Transportation, in consultation with the Convener, to refuse planning permission. It was considered that the proposed development would be contrary to Built Environment Policy BE11 of the adopted Dundee Local Plan and Policy 61 of the Finalised Dundee Local Plan Review as it would have a detrimental effect on the appearance of the existing property and the surrounding area and would neither preserve nor enhance the character of the Maryfield Conservation Area.

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 8th September, 2003. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be:

- (i) Whether the proposal would preserve or enhance the character or appearance of the conservation area;
- (ii) Whether the proposal was consistent with Policy BE11 of the adopted Local Plan; and if not,
- (iii) Whether exceptional treatment is justified by the provisions of the Local Plan Review, the views of Historic Scotland or the applicant's offer to alter the proposals.

The Reporter concluded that the proposals neither complemented nor enhanced the conservation area, contrary to both the above policies by virtue of the proposed design and loss of mature and semi-mature trees. The Reporter attached significant weight to the comments of Historic Scotland who objected to the proposals. The Reporter was not prepared to consider an "ill-defined" alternative to the proposals before him.

Accordingly, the appeal was **DISMISSED**.

- (b) PREMISES SOUTH OF STANNERGATE ROAD - PROPOSED HAZARDOUS SUBSTANCES CONSENT FOR THE STORAGE OF UP TO 5000 TONNES OF AMMONIUM NITRATE FERTILISER

Reference is made to Article IV(a) of the Minutes of the Development Quality Committee of 28th April, 2003 wherein the above proposal was refused hazardous substances consent because the Council considered that the risks to the surrounding population from the proposed operations were sufficiently high to justify refusal. This view was based on the expert advice offered by the Health & Safety Executive.

The decision was appealed by the applicant under the provisions of Section 19 and Schedule of the Town & Country Planning (Hazardous Substances) (Scotland) Act 1997.

The appeal was determined by written representations and the decision was received by the Council on 24th September, 2003. A copy of the decision letter can be found in the Members' Lounges.

As provided for by Section 7(2) of the Act the Reporter took the following matters into account in reaching his decision:

- (a) The current and contemplated use of the application site;
- (b) The way in which land in the vicinity is being used or is likely to be used;
- (c) Any planning permission that has been granted for development in the vicinity;
- (d) The provisions of the development plan;
- (e) Any advice received from HSE.

In summary the Reporter concluded that the decision turned on point e). He found that HSE had justified its advice which had been based on established technical assessment methodology and computer modelling techniques. No other substantial or conclusive expert evidence had been submitted of sufficient weight to contradict the HSE's analysis and conclusions. HSE had a special statutory status unlike other consultees.

Accordingly the appeal was **DISMISSED**.

Both parties submitted claims for expenses by both parties. At the time of writing this report the Reporter's determination had not been received.

