

3 PLANNING APPEAL DECISIONS (AN58-2011)

(a) 11 FREDERICK STREET, DUNDEE - RETROSPECTIVE CHANGE OF USE TO A MIXED USE FAMILY DWELLINGHOUSE AND CHILDREN'S NURSERY FOR 12 CHILDREN

Reference is made to Article I (b) of the minute of meeting of this Committee of 18 October 2010 wherein the above proposal was refused planning permission because the Council considered that the development contravened Policy 1 of the Local Plan in terms of parking and traffic movement issues and noise and Policy 19 in terms of the lack of off street dropping off spaces.

The decision was appealed by the applicant and the appeal was determined by written representations and the decision was received by the Council on 9 March 2011. Copies of the Reporter's decision letter have already been circulated to Members by email.

The Reporter **DISMISSED** the appeal and refused planning permission.

In reaching her decision the Reporter concluded that the nursery generated a certain amount of activity and traffic noise on a lightly trafficked road that would make a significant difference to residents in this quiet residential area. There would also be noise from children playing within the building and in the garden area that could not be mitigated by a restriction on the hours of operation. She did not consider parking to be a significant issue but felt that proposals to remove the garden wall would add to the already detrimental impact on neighbouring residents. She concluded that the use as a nursery for up to 12 children was not an appropriate use in this location, that there would be a significant detrimental effect on the environmental quality enjoyed by neighbours and that the development therefore contravened Policy 1 of the Local Plan. She also concluded that although the nursery would meet many of the criteria of Policy 19 of the Local Plan, that the nursery was not well located and that due to the impact on neighbours amenity that this was sufficient to justify refusal of the application.

(b) 309 STRATHMARTINE ROAD, DUNDEE - RETROSPECTIVE CHANGE OF USE TO A MIXED FAMILY DWELLINGHOUSE AND CHILDREN'S NURSERY FOR 12 CHILDREN

Reference is made to Article I(C) of the minute of meeting of this Committee of 15 November 2010 wherein the above proposal was refused planning permission because the Council considered that the development contravened Policy 1 of the Local Plan in terms of parking and traffic movement issues and noise and Policy 19 in terms of being situated on a heavily trafficked road with insufficient off-street dropping off spaces.

The decision was appealed by the applicant, the appeal was determined by written representations and the decision was received by the Council on 9 March 2011. Copies of the Reporter's decision letter have already been circulated to Members by e-Mail.

The Reporter **UPHELD** the appeal and granted planning permission subject to conditions.

In reaching her decision the Reporter concluded that the nursery generated a certain amount of activity and traffic noise but that as the site was on a busy road this would not make a significant difference to noise and disturbance currently experienced by neighbours. There would also be noise and amenity issues relating to children playing in the garden area but conditions limiting the number of children to 12, restricting the hours of operation and increasing boundary enclosures to protect privacy would satisfactorily mitigate these impacts.

She considered that the proposed additional parking spaces in the front garden area would reduce the frequency of illegal parking which she noted in any case was a matter for enforcement of traffic regulations. She stated that there was no conflict with most of the criteria of Policy 19, the only conflict being that the site was located on a busy road. She felt there was no clear justification for this restriction and concluded that the development complied with Policy 1 and the relatively minor conflict with Policy 19 was insufficient to justify refusal.

(c) DALNACRAIG AND MAYFIELD SPORTS GROUNDS, ARBROATH ROAD, DUNDEE - PROVISION OF TWO ALL-WEATHER PITCHES, FLOODLIGHTING AND EXTENSION TO PARKING FACILITIES

Reference is made to Article I (b) of the minute of meeting of this Committee of 16 August 2010 wherein the above proposal was refused planning permission contrary to the Director's recommendation. The Council considered that the proposal would have an adverse impact on the environmental quality enjoyed by local residents by virtue of noise disturbance, road safety, light pollution and visual amenity, contrary to Policy 1 of the Dundee Local Plan.

The decision was appealed by the applicant and the appeal was determined by written representations and the decision was received by the Council on 1 February 2011. Copies of the Reporter's decision letter have already been circulated to Members by email.

The Reporter **UPHELD** the appeal and granted planning permission subject to conditions.

In reaching his decision the Reporter noted that the proposals would result in significant improvements to the sporting facilities at Dalnacraig, benefiting the school and local sports clubs who may use the facilities. He accepted that the amenities of local residents would be affected by noise over longer time periods, ground engineering works, floodlighting and fencing. However, he considered that the hours of operation restriction suggested by the Director of City Development would be helpful and that planning conditions could address light pollution and privacy issues. He concluded that most of the impact on residents could be mitigated and that given the important benefits of the development that these impacts, suitably mitigated, would not be unacceptable.

He considered that the improvements to parking would encourage some drivers to use the car park and that the proposals would not harm road safety. He felt that with the introduction of the proposed signalised pedestrian crossing the proposals would not be detrimental to road and pedestrian safety. He concluded that the development complied with the Development Plan.