

### 3 PLANNING APPEAL DECISIONS (AN73-2006)

- (a) UPPER WEST ST MARGARET'S, 18 CAMPHILL ROAD, BROUGHTY FERRY - EXTENSION TO UPPER AND LOWER FLATS C AND D

Reference is made to Article I(X) of the minute of meeting of this Committee of 31st January, 2005 wherein the above proposal was refused planning permission because the Council considered that the proposals contravened Policies H4, BE4(A) and (G) and BE11 of the (now superseded) Dundee Local Plan and Policies 14, 15(a), and (f) and 61 of the (then) Finalised Dundee Local Plan Review 2005. These policies relate to the alteration and extension to houses, to developments in garden ground and to the quality of developments in conservation areas.

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

The appeal was determined by written submission and the decision was received by the Council on 11th January, 2006. A copy of the decision letter can be found in the Member's Lounges.

The Reporter considered the determining issues to be whether the proposals would preserve or enhance the character or appearance of the conservation area; whether the proposal conformed to the relevant provisions of the Development Plan; and whether an exception to the relevant provisions of the plan was justified by other material considerations.

In summary, the Reporter was of the opinion that the extension would not cause a significant loss of sunlight, daylight or privacy of neighbouring properties; the extension should have no adverse impact on the prominent elevations of the house and that the design and use of materials respected the character of the building; and that the extension would not diminish the contribution which the appeal building makes to the character and appearance of the conservation area. In conclusion, the Reporter considered that none of the Development Plan policies were violated and that there were no other material considerations which outweighed his considerations and conclusions.

Accordingly the appeal was **UPHELD** with conditions relating to the submission of samples of materials; and the submission of window details.

- (b) LAND ADJACENT TO 167 GRAY STREET, BROUGHTY FERRY, DUNDEE - ERECTION OF DWELLING HOUSE

Reference is made to Article I(i) of the minute of meeting of this Committee of 23rd May, 2005 wherein the above proposal was refused planning permission because the Council considered that the development contravened Policy BE11 of the (then) adopted Dundee Local Plan 1998 and Policy 61 of the Finalised Dundee Local Plan Review 2005 as it would detract from appearance of the Forthill Conservation Area. In addition it was considered that the proposal contravened Policy 15(d) of the Finalised Dundee Local Plan Review 2005 as it failed to reflect the prevailing densities in the area and would erode the visual character of the 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 4th January, 2006. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the proposal would

- (a) preserve or enhance the character or appearance of the conservation area;
- (b) accord with the relevant provisions of the development plan; and
- (c) be justified by other material considerations.

In summary, the Reporter concluded that the design and location of the proposal minimises its visual intrusion taking advantage of the slope and existing screening with no further breach to boundary walls and with parking on the least prominent part of the site. Accordingly, it was concluded that the proposal would preserve and enhance the character or appearance of the conservation area. The Reporter also considered on an assessment of surrounding development that the proposal did not fail to respect prevailing densities in the area. The proposal complied with the relevant policies of the adopted and draft local plans and there were no material considerations which would lead to an exceptional refusal of planning permission.

Accordingly, the appeal was **UPHELD** with conditions relating to the submission of materials samples and landscaping details.

(c) FOOTPATH ADJACENT TO ARBROATH ROAD, DUNDEE - ERECTION OF TELECOMMUNICATIONS MAST

Reference is made to Article I(b) of the minute of meeting of this Committee of 27th June, 2005, wherein the above proposal was refused planning permission because the Council considered that the proposal would adversely impact on the visual amenity of this predominantly residential area contrary to policies in the adopted and finalised local plans, non statutory guidance and national policy and advice; and that it would have an adverse impact on listed structures due to its proximity to the boundary wall and gateway of the Eastern Necropolis.

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 6th February, 2006. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether:

- (i) The proposed development would preserve the setting of the boundary wall and gateway of the Eastern Necropolis; and
- (ii) The proposal would accord with the relevant provisions of the local plan; and if so
- (iii) Whether there were any material considerations which would still justify refusing the grant of planning permission.

In summary, the Reporter concluded that:

- (i) Due to the location of the proposal relative to the Eastern Necropolis it would not affect or impinge on the setting of the listed structure.
- (ii) Due to the location of the structure closely adjacent to existing trees and street furniture and taking into account its distance from the nearest housing (45 metres) it would not significantly impact on visual amenity. The Reporter was satisfied that the proposal was compliant with the terms of the development plan.
- (iii) The proposal was so located as not to pose an obstruction to pedestrian movement or a hazard to parking on Arbroath Road.

Accordingly, the appeal was **UPHELD** with a condition relating to the removal of the installation if it becomes obsolete.

(d) STOBSMUIR SERVICE RESERVOIR, DUNDEE - REPLACEMENT OF A TURF ROOF WITH MEMBRANE AND GRAVEL

Reference is made to Article I(j) of the minute of meeting of this Committee of 28th February, 2005, wherein the above proposal was refused planning permission because the Council considered that the proposal contravened Policies BE11 and BE17 of the (now superseded) adopted Dundee Local Plan 1998 and Policy 61 of the Finalised Dundee Local Plan Review 2005. These policies require proposals to preserve or enhance the character of conservation areas and the enhancement of the architectural and historic character of the listed buildings.

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 20th January, 2006. In this case the decision was made by Scottish Ministers who agreed with the Reporter that the appeal should be dismissed and planning permission refused. A copy of the decision letter can be found in the Members' Lounges.

The Scottish Ministers considered the determining issues to be whether the proposal complied with the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which are reflected in the development plan policies referred to by the Council.

In respect of the risk of water contamination from the replacement of the grass roof over a membrane the Ministers considered that the appellants overstated the risk involved and did not consider this to be sufficient to over ride the statutory duty to preserve the listed building and its features. Whilst accepting that there were limited possibilities of pedestrians at street level seeing the grass roof, the conclusion was reached that the appearance of the reservoir as a whole, including the appearance of the turfed roof contributed to the character and attractiveness of the conservation area.

Accordingly the appeal was **DISMISSED**.

### **Commentary**

Following the decision of the Committee to refuse planning permission Scottish Water Solutions (agents for Scottish Water), pending the outcome of the appeal proceeded to remove the grassed roof and replace the underlying membrane, actions which did not require planning permission or listed building consent. However the appeal decision requires the grass to be relaid and the Council has written to the applicants seeking details of their intentions in order that the Council can enforce the appeal decision.

(e) LAND AT 74 EAST DOCK STREET, DUNDEE - 96 SHEET ADVERTISEMENT DISPLAY PANEL

Reference is made to the decision of the Council on 27th July, 2005, under powers delegated to the Director of Planning and Transportation in consultation with the Convener, to refuse Advertisement Consent because the Council considered that the development would appear conspicuous and intrusive and would be detrimental to the visual amenity of the area, contrary to Policies BE6 and BE23 of the (now superseded) Dundee Local Plan and Policies 57 and 63 of the (then) Finalised Local Plan Review. The proposals would be located on a main Ambassador Route where environmental improvements have been undertaken in recent years.

The decision was appealed by the applicant under the provisions of Section 182 of the Town and Country Planning (Scotland) Act 1997 and Regulation 21 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

The appeal was determined by written representations and the decision was received by the Council on 25th January, 2006. A copy of the decision letter can be found in the Members' Lounges.

In summary, the Reporter concluded that he agreed with the Council's case and also stated that the approval of the display panel would set a precedent for further hoardings along this frontage all to the detriment of the character of this approach to the city centre.

Accordingly the appeal was **DISMISSED**.