

#### 4 PLANNING APPEAL DECISIONS (AN194-2007)

(a) ROYAL BANK OF SCOTLAND, BROOK STREET, BROUGHTY FERRY - INSTALLATION OF CONCRETE RAMP

Reference is made to the decision of the Council on 20th September 2006, under powers delegated to the Director of Planning & Transportation, to refuse planning permission because the Council considered that the ramp would have an adverse impact on pedestrian safety because it would leave an inadequate footway for pedestrians at a busy location within the Broughty Ferry district shopping centre.

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 14th June 2007. Copies of the decision notice have already been circulated to members by email.

The Reporter considered the determining issues to be whether:

- i the proposal accorded with the provisions of the development plan. (In this case the relevant provisions were considered to be Transport Policy 3 of the Structure Plan and Policy 38 of the Dundee Local Plan Review 2005 relating to accessibility and the protection of the viability and vitality of district centres respectively); and if not
- ii whether an exceptional approval was warranted by other material considerations. In this case the other material considerations were the Disability Discrimination Act, national policy guidance and relevant technical guidance relating to standards to be achieved in respect of pedestrian accessibility and access measures for the disabled.

In summary the Reporter concluded that the proposal accorded with the principles set out in DASP Transport Policy 3 in respect of the improvement of disabled person's access to the bank and its facilities. The Reporter accepted the Bank's argument that an external ramp was the only viable option even though it would restrict the pavement space available to pedestrians by over a metre for 10 metres of its length. She did not accept that an unacceptable precedent would be set nor that the reduced footway width would adversely affect the safety of pedestrians in the vicinity of the taxi rank.

It was found that the proposal accorded with the provisions of the development plan and would achieve sufficient balance in meeting the needs for safety and accessibility for both disabled and non disabled persons in this location.

Accordingly the appeal was **UPHELD** with conditions relating to the replacement of the adjacent street lighting column, the submission of further details of the ramp and the reinstatement of the adjacent pavement to the satisfaction of the Council.

(b) CLATTO WATER TREATMENT WORKS SITE - 29 METRE HIGH TELECOMMUNICATIONS MONOPOLE AND ASSOCIATED CABINETS

Reference is made to Article 1(C) of the minute of meeting of this Committee of 25th September 2006 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policy 78 of the adopted Local Plan Review and complementary non statutory policies (failure to demonstrate that mast share was not a feasible option; and the additional mast would have an adverse environmental impact).

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 5th July 2007. Copies of the decision notice have already been circulated to Members by email.

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

In his reasons for the decision the Reporter agreed with the Council that the proposal precluded mast sharing and therefore was contrary to Policy 78. Although the Reporter did not consider the proposal

would have a significant adverse affect on the amenity of the nearby residents such as to warrant refusal on these grounds, he found no material considerations which were sufficient to counterbalance the non compliance with the development plan.

(c) ANCRUM ROAD/CHARLESTON DRIVE - AMENDMENT OF THE RESTRICTION PLACED ON THE NUMBER OF CARS FOR SALE WITHIN THE SALES YARD FROM 11 TO 20

Reference is made to Article I(W) of the minute of meeting of this Committee of 25th January 2007 wherein the above proposal was refused planning permission because the Council considered that the proposal would constitute an over-intensification of the use of the site for the sale of cars which was likely to lead to site access and vehicle manoeuvring difficulties and was also likely to lead to the parking of customer and staff vehicles on-street, all to the detriment of the environmental quality and road traffic safety enjoyed by local residents in terms of Policy 1 of the Dundee Local Plan Review 2005.

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 9th July 2007. Copies of the Decision Notice have already been circulated to Members by e-mail.

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

In reaching his decision the Reporter considered that the appeal proposal would not be contrary to Policy 1 of the Dundee Local Plan 2005 as there would not be a significantly increased level of loss of amenity for local residents. However, he considered that the proposed layout would have the effect of impeding or obstructing parking by staff and customers and that this was an important material consideration. Also, it would be premature to allow an intensification of the use prior to the expiry of the timeframe of the temporary planning permission already in place.

(d) 46 THOMSON STREET, DUNDEE DD1 4LG - CHANGE OF USE TO A HOUSE IN MULTIPLE OCCUPATION (INCREASE IN NUMBER OF RESIDENTS FROM 5 TO 7)

Reference is made to Article 1(g) of the minute of meeting of this Committee of 22 January 2007 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to the provisions of Policies 1 and 11 of the Dundee Local Plan Review 2005 (adverse impact on the environmental qualities enjoyed by neighbours; excessive concentration of use in the area; and parking pressures).

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 23 July 2007. Copies of the decision notice have already been circulated to Members by e-mail.

The Reporter **UPHELD** the appeal and granted planning permission subject to a condition relating to the submission of details concerning off street parking and refuse storage.

In reaching his decision the Reporter considered that the appeal proposal:

- a due to its limited scale, would not have an adverse impact on the conservation area; and
- b would not have an adverse impact on the environmental quality enjoyed by residents by virtue of parking and traffic movement as adequate parking was likely to be made available at the side of the house.

In terms of concentration of HMO uses the Reporter noted that each of the five adjoining properties had an HMO licence there was no evidence before him that the level of occupation exceeds five occupants and that any breaches of planning control exist. Irrespective of the grant of planning permission for this proposal the need to renew the HMO licence after 3 years is an opportunity to take into account any management issues arising.

## (e) LAND TO WEST OF RICHMOND TERRACE, DUNDEE - ERECTION OF DWELLINGHOUSE

Reference is made to Article 1(j) of the minute of meeting of this Committee of 22 January 2007 wherein the above proposals was refused planning permission because the Council considered that the proposal was contrary to the provisions of Policy 1 of the Dundee Local Plan Review 2005 (access, and adverse environmental quality enjoyed by neighbours) and Policy 61 (pruning and felling of trees in a 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 23 July 2007. Copies of the decision notice have already been circulated to Members by e-mail.

The Reporter DISMISSED the appeal and refused to grant planning permission.

In reaching his decision the Reporter considered that the appeal proposal by its insertion into the prominent wooded slope would have an impact on the wider area and would neither protect nor enhance either the character or appearance of the conservation area. Therefore Policy 61 of the Local Plan Review would be breached. The proposal was found to comply with Policies 1 and 4 taking into account design, access and impact on neighbours considerations.

Expenses were claimed by the appellant. The claim was unsuccessful.

## (f) FORMER TAY ROPE WORKS, 51 MAGDALEN YARD ROAD, DUNDEE - RESIDENTIAL DEVELOPMENT

Reference is made to Article (a) of the minute of meeting of this Committee of 30 October 2006 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to the provisions of Policies 4, 6 and 61 of the Dundee Local Plan Review 2005 (proportion of flats to houses; town cramming; lack of open space; failure to preserve or enhance the 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 public inquiry and the decision was received by the Council on 19 July 2007. Copies of the decision notice have already been circulated to Members by e-mail.

The Reporter DISMISSED the appeal and refused to grant planning permission.

In reaching his decision the Reporter found shortcomings with the proposal as a whole relating to its density, high levels of car parking, and lack of communal open space. He considered that there were design issues relating to the use of materials. He also considered that a more imaginative scheme was possible in which all these deficiencies could be overcome.

The appellants made a claim for the award of expenses against the Council. This claim was unsuccessful.