

3 APPEAL DECISION - 31 BUTTARS LOAN, DUNDEE - CHANGE OF USE FROM VACANT PUBLIC HOUSE TO THREE RETAIL UNITS (AN6-2013)

Reference is made to Article 1(e) of the minute of meeting of this Committee of 18th June, 2012, wherein the above proposal was refused planning permission contrary to the Director's recommendation because the Council considered that:

The application was contrary to Policy 45 of the Dundee Local Plan Review 2005 as the applicant had failed to demonstrate that there were no available sites within the City or District Centres and also as the applicant had failed to demonstrate that there was a deficiency in shopping provision that cannot be met within or on the edge of the City Centre or a District Centre. It was considered that although Policy 42 of the Dundee Local Plan Review 2005 offers support to the upgrading of existing shopping provision at local shopping parades, the contravention of Policy 45 was of significant weight such as to warrant refusal of the application. There were no material considerations that would warrant approval of the application contrary to the terms of Policy 45 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 and Country Planning (Scotland) Act 1997.

The appeal was determined by written representations and the decision was received by the Council on 13th December, 2012. Copies of the Reporter's decision letter have already been circulated to Members by email.

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

In reaching her decision, the Reporter considered that the determining issues were the impact of the proposal on the environmental quality of the area and its retail impact, having regard to the provisions of the development plan and other material considerations.

In terms of the impact on the environmental quality of the area she felt the development would enhance the appearance of the area, would not have unacceptable noise or smell impacts and would provide adequate parking facilities and would therefore accord with Policy 1 of the Local Plan.

In terms of retail impact, she considered that the proposal accorded with Policy 42 of the Plan on local shopping provision, noted that the policy did not protect one local shopping centre or parade from retail development within another and in any event she was not convinced that the additional floorspace proposed would have an unacceptable adverse impact on existing provision.

She was not convinced that Policy 45 of the Plan was applicable given that Policy 42 identified an appropriate extent of local shopping expansion provision. If it were applicable she felt that the proposal would conflict with Policy 45(a) and (c) because there were suitable sites within or on the edge of designated centres and there was no deficiency that could not be addressed in these centres. She considered that there was no conflict with Policy 7 of TAYplan.

In terms of other matters she felt it was unlikely that the premises would reopen as a public house and that although community uses might be appropriate, there were none before her to consider. She felt the proposal would make use of a vacant and run down building and provide an increased range of shopping facilities for local residents. She did not consider that the commercial impact on existing businesses was something she could take into account.

She therefore concluded that any conflict with Policy 45 was outweighed by the positive impact on the environmental quality of the surrounding area and its conformity with Policies 1 and 42 of the Local Plan and allowed the appeal subject to conditions similar to those proposed by the Council.