

5 APPEAL DECISIONS (AN304-2007)

- (a) FLAT A, 3 VICTORIA ROAD
RETROSPECTIVE CHANGE OF USE FROM BEAUTY SALON TO FLAT

Reference is made to the decision of the Council on 30 March 2007, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposal was contrary to the provisions of Policy 4 of the Dundee Local Plan Review 2005 (standards for new residential development) and because the granting of permission would conflict with the Council's air quality objectives by virtue of the flat's location at ground floor level in an area subject to high pollutant levels.

An appeal was also lodged against an enforcement notice issued in respect of the unauthorised use. The Reporter deals with the enforcement notice appeal within his decision letter for the planning application.

The decisions were appealed by the applicant under the provisions of Sections 47, Schedule 4 and Section 130 of the Town and Country Planning (Scotland) Act 1997.

The appeals were determined by written representations and the decisions were received by the Council on 12 November 2007. Copies of the decision notices have already been circulated to Members by email.

The Reporter **UPHELD** both appeals, granted planning permission and quashed the enforcement notice.

In reaching his decisions the Reporter found that the development failed to comply with the development plan (Policy 4) where new housing (including changes of use) should be of high quality and have a minimum of two bedrooms. However, turning to other material considerations he considered that the use was appropriate in a building which was predominantly in residential use formed by flats of a similar standard to the application property. The Reporter dismissed the air quality argument as having little weight given the evidence before him and the fact that similar flats were located at ground floor level on either side of the appeal property. Although no alterations to the building were involved the granting of the appeals would reinforce the residential character of this part of the conservation area.

- (b) UPPER FLOORS, 53 GELLATLY STREET
CONVERSION OF WAREHOUSE AND OFFICE TO FORM EIGHT FLATS WITH
RETAINED GROUND FLOOR WAREHOUSE

Reference is made to the decision of the Council on 6 July 2007, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposal was contrary to the provisions of Policy 4 of the Dundee Local Plan Review 2005 (the proposal was deficient in design quality, size of individual units, adequacy of cycle storage, lack of natural light and potential for noise disturbance).

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 12 November 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 reaching his decision, although the Reporter considered the design to be "acceptable" he agreed with the Council in respect of all the other issues raised under Policy 4.

- (c) 21 FAIRFIELD ROAD
DEMILTION OF EXISTING INDUSTRIAL UNIT AND ERECTION OF FIVE
TOWNHOUSES

Reference is made to the decision of the Council on 15 May 2007, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposal was contrary to the provisions of the following policies of the Dundee Local Plan Review 2005: Policy 26 (residential development not supported in general economic development areas) and 4 (non-compliance with design standards of new residential development).

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 12 November 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 reaching his decision the Reporter found that the proposals were contrary to the development plan as specified by the Council (residential use totally inappropriate at this location within an area largely devoted to business uses; non-conformity with design standards for residential development).

(d) LAND NORTH OF FALKLAND CRESCENT, BROUGHTY FERRY
ERECTION OF THREE HOUSES

Reference is made to Article 1j of the Minutes of the Development Quality Committee of 18 June 2007 wherein the above proposal was refused planning permission because the Council considered that the proposal

- (a) would lead to pedestrian and traffic safety problems;
- (b) would overlook and overshadow adjacent properties contrary to Policy 4 of the Dundee Local Plan Review 2005;
- (c) was unsatisfactory in its design;
- (d) would involve the loss of valuable open space.

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 6 November 2007. Copies of the decision notice have already been circulated to Members by email.

The Reporter **UPHELD** and granted planning permission with conditions relating to the submission of details to the Council.

In reaching his decision the Reporter found that

- (a) there was no development plan policy or other consideration which led him to conclude that the principle of residential development of the appeal site was unacceptable;
- (b) although the development of the site would result in a significant change of outlook from the existing dwellings backing on to the site he did not consider that a significant degree of overlooking or overshadowing would occur;
- (c) the proposed design was of high quality in terms of massing, elevational treatment and use of materials;
- (d) the proposal would have an insignificant impact on traffic flows on Falkland Crescent.
- (e) LAND WEST OF WOODCROFT, 69 DUNDEE ROAD, WEST FERRY
ERECTION OF DETACHED DWELLINGHOUSE

Reference is made to Article I(o) of the minute of meeting of this Committee of 23 April 2007 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to the provisions of Policies, 4, 15 and 61 of the Dundee Local Plan Review 2005 (the design and layout of new housing is required to be of high quality respecting prevailing densities; the respecting of criteria for developments in garden ground; and the preservation and enhancement of the conservation area).

The decision was appealed by the applicant under the provisions of Section 47 and Schedule 3 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 12 November 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 reaching his decision the Reporter found that although the design of the proposed dwelling was acceptable when viewed in isolation, other criteria under Policy 4 were not met (distance from neighbouring properties) leading to an inconsistency with the surrounding pattern of development. The total footprint of the dwelling exceeded one and a half times the footprint of the existing house as required under Policy 15. Taking the above into account the Reporter considered that the proposal would adversely affect the character and appearance of the conservation area required by Policy 61.

(f) **FLAT 2/0, 7 CANNING STREET**
REINSTATEMENT OF PROPERTY TO 2 X 1 BEDROOM FLATS

Reference is made to the decision of the Council on 10 August 2007, under powers delegated to the Director of Planning and Transportation, to refuse planning permission because the Council considered that the proposal was contrary to the provisions of Policy 4 of the Dundee Local Plan Review 2005 (sub-standard quality of residential accommodation) in that 2 small single bedroom flats were proposed.

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

The Reporter **UPHELD** the appeal and granted planning permission. The Council had requested that, should planning permission be granted on appeal, a condition be applied requiring improvement works to the block including the redevelopment of the garden area, the provision of a secure gateway to the bind store and the redecoration of the stairwell. The Reporter did not accede to this request as he considered that such a condition would not pass the test of reasonableness and relevance to the development permitted.

In reaching his decision the Reporter found that the flat was currently vacant and in a poor condition, and that the tenemental block in which it was located did not benefit from a high standard of amenity. There was extensive evidence of vandalism. He found the proposal contrary to the terms of Policy 4 of the Dundee Local Plan Review 2005 and therefore contrary to the Development Plan.

Turning to other material considerations, the Reporter felt that given the poor quality of residential environment offered by the block, he did not consider that the objectives of Policy 4 would be achieved by dismissing the appeal. By upholding the appeal the property would be returned to its original form and "would be entirely consistent with the other flats within the tenement." An exception to policy was merited in this case.