

5 APPEAL DECISIONS (AN49-2008)

(a) THE CASK, 1-5 ALBERT STREET, DUNDEE - EXTERNAL SEATING AREA ON FOOTPATH ADJACENT TO PUBLIC HOUSE

Reference is made to Article 1(e) of the Minutes of the Development Quality Committee of 4th June, 2007 wherein the above proposal was refused planning permission because the Council considered the proposals to be contrary to Policies 1 and 53 of the Dundee Local Plan 2005 (residential amenity; noise and public safety).

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 22nd February, 2008. Copies of the decision notice have already been circulated to Members by e-mail.

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

In reaching her decision the Reporter disagreed with the Council that the application of Policy 53 related to extensions to public houses as well as to proposals for new public houses. She also considered that given the size of the proposal it was unlikely to have any material effect on the environmental quality of residents. However, the Reporter shared the Council's concerns as to the proposal's likely effect on public safety. The projection of the tables and chairs into the footway would leave less than a two metre gap to the kerb, a distance which would mean that pedestrians and wheelchair users would find it difficult to pass without going very close to or stepping on to a busy road.

(b) LAND AT CORNER OF BALGRAY PLACE AND BALGRAY STREET, DUNDEE - ERECTION OF FOUR TOWNHOUSES

Reference is made to the decision of the Council on 18th September, 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 Policies 4, 55 and 79 of the Dundee Local Plan Review 2005 (design, contaminated land and noise from adjacent industrial land use).

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 22nd February, 2008. Copies of the decision notice have already been circulated to members by e-mail.

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

In reaching his decision the Reporter agreed with the Council that the design of the proposal was unacceptable and did not meet the standards expected under the policies of the local plan. Issues of contaminated land whilst relevant to the discussion could if the appeal were upheld be dealt with by suspensive condition. The Reporter had concerns that noise emanating from a factory opposite provided an insurmountable obstacle to the townhouse development. The Reporter throughout emphasised the importance of quality urban design and that development can be spoilt by poor attention to detail (PAN 67).

(c) 10 DUNDONALD STREET - EXTERNAL SEATING AREAS IN FRONT OF PUBLIC HOUSE

Reference is made to Article 1(f) of the Minutes of the Development Quality Committee of 4th June, 2007 wherein the above proposal was refused planning permission because the Council considered the proposals to be contrary to Policies 1 and 53 of the Dundee Local Plan 2005 (residential amenity; noise and public safety).

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 21st February, 2008. Copies of the decision notice have already been circulated to Members by e-mail.

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

In reaching his decision the Reporter disagreed with the Council that the application of Policy 53 related to extensions to public houses as well as to proposals for new public houses. The Reporter agreed that the seating area was likely to increase the amount of noise and activity outside the building and in proximity to residences. The proposal was therefore considered to be contrary to Policy 1 of the Local Plan Review. A decision contrary to the provisions of the local plan was not merited by other material considerations.