

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

13 JUNE 1996

SUBJECT: PLANNING APPEAL DECISION  
7/9 GLENGATE, KIRRIEMUIR

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

**Abstract:** This report presents the findings of the Reporter appointed by the Secretary of State to determine the appeal against the refusal by Angus District Council to grant consent for the change of use of a store to house at 7/9 Glengate, Kirriemuir.

**1 RECOMMENDATION**

It is recommended that the Committee note the successful outcome of the above appeal.

**2 INTRODUCTION**

2.1 With reference to Angus District Council minute 4(1)/96 the Planning and Development Committee at their meeting of 8 January 1996 refused consent for the change of use of a former store to a three apartment dwellinghouse at 7/9 Glengate, Kirriemuir.

2.2 The applicant, Mrs. S. Allen, appealed against the refusal and the Inquiry Reporter's conclusions and decision are presented below.

**3 REPORTER'S DECISION**

3.1 "In determining any planning application or appeal, the Act requires that regard shall be had to the relevant provisions of the development plan, and to any other material considerations. In this appeal, no suggestion has been made by any of the parties that the proposal is contrary to any provision of either the Structure Plan or the Local Plan, for the area. On the basis of the written submissions and the site inspection therefore, I consider that the determining issues in this appeal are whether the proposal would:-

1. provide an acceptable standard of residential accommodation; and
2. be detrimental to the amenity of neighbouring residential property through loss of privacy or noise nuisance.

- 3.2 With regard to the first issue, I share the concerns of the Reporter in the previous appeal that virtually no sunshine reaches the building, and that daylight is very restricted by the configuration of the neighbouring property. Whilst the proposal which is the subject of this appeal is for the creation of one dwellinghouse rather than three flats, I consider that the lack of adequate sunlight and daylight remains a critical factor. The proposed kitchen window, on the ground floor, is less than 3.5 metres from the rear of the blank wall of the neighbouring property and faces on to a restricted area used for garaging and car parking. It would have little, if any, outlook. The reduction in windows on the upper floors in the west elevation, whilst alleviating the problems of overlooking with the neighbouring property, has exacerbated the sunlight and daylight problem. I note the proposal to install two velux rooflights for the bedrooms on the second floor, to compensate in part for this reduction, but I remain concerned that the sunlight and daylight available through the number of small windows provided is below that expected in a modern residence. No evidence has been led to indicate the extent to which the proposal meets current standards of daylight and sunlight.
- 3.3 There is no vehicular access to the appeal site, and the building lacks any garden or amenity space of its own. I note that the Council accepts that there are a number of similar properties throughout Angus District which are in residential use. However, combined with the lack of an adequate provision of daylight and sunlight, I find that the proposal to convert the store into a three apartment dwellinghouse would not provide a satisfactory standard of residential accommodation.
- 3.4 With regard to the second issue, I am satisfied that the external appearance of the building has been satisfactorily adjusted, with the reduction of the window openings in the west elevation, to substantially prevent the overlooking of windows with neighbouring property. I find therefore that the proposal would not result in a loss of privacy or noise nuisance for neighbouring residents and would not be detrimental to the amenity of neighbouring residential property.
- 3.5 I conclude therefore that, whilst the overlooking problems have been resolved, the proposal would not provide an acceptable standard of residential accommodation. I agree that buildings such as the appeal site, located at the rear of main street frontages, through pends, up closes or within courtyards, are part of the charm of the centre of Kirriemuir. I am also conscious of the uncertainty of the future of the building should planning permission not be granted for this proposal.
- 3.6 Nevertheless, I am not persuaded that these concerns, nor any other matters raised, outweigh the considerations leading to my conclusions. Accordingly, in exercise of the authority delegated to me, I hereby dismiss this appeal."

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

**5 CONSULTATION**

- 5.1 The Director of Law and Administration and Director of Finance have been consulted in the preparation of this report.

**NOTE**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/JJ/KW  
5 July 1996

Alex Anderson  
Director of Planning, Transport & Economic Development

