

ITEM No. 6

Report No 585/96

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

15 AUGUST 1996

SUBJECT: FARM PARK, LETHAM GRANGE COMPLIANCE WITH PLANNING CONSENT

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: Complaints have been received from a neighbour that the conversions of the Admin Block to hotel accommodation at Farm Park, Letham Grange, is not in compliance with planning consent. This report presents the circumstances pertaining.

1 RECOMMENDATION

It is recommended that no action be taken against the applicant, Letham Grange Development Co. Ltd.

2 INTRODUCTION

2.1 An application by Letham Grange Development Co. to convert the Admin Block at Farm Park to guest accommodation was approved in March 1996. Various conditions were imposed to protect residential amenity, several of which were then appealed against.

2.2 Two of the three conditions appealed against were resolved at the last (13 June) meeting of the Development Control Committee (Report 501/96 refers). However, one of the immediate neighbours, Mr. Thomson, alleges that the conversion, now complete, is in breach of the planning consent in two respects: (a) the chimney has not been demolished; and (b) there remains a door on the rear elevation contrary to a condition imposed.

3 PLANNING CONSIDERATIONS - CHIMNEY

3.1 The original plans submitted by the applicant and approved by the District Council's Planning Committee on 19 February 1996 gave no indications of an intention to demolish the tall, redundant chimney attached to the building. Demolition of the chimney was not discussed by the Committee and no condition requiring its demolition was imposed. Before the approved plans could be issued, however, revised plans were submitted which depicted the chimney in a broken line with a statement indicating an intention to demolish it. The revised plans generated much discussion at the meeting on 4 March but none of it directed at the chimney and again no such condition was attached in approving the development.

3.2 Before embarking on an enforcement action to secure the removal of the chimney, the Committee needs to assure itself that such action is reasonable under the circumstances and that there is a reasonable chance of success.

- 3.3 Given the original intention to approve plans that did not involve the demolition of the chimney, the interpretation can be made that the Council did not regard the chimney as a material issue. Accordingly, in the absence of a specific condition requiring its demolition, enforcement action now to secure its removal could, on appeal, be construed as unreasonable behaviour on the part of the planning authority.
- 3.4 Comparison could be made with, for instance, a situation where a hut is indicated for demolition on an approved plan for a new house plot. Should the hut then be retained for back garden storage, the planning authority would be unlikely to pursue enforcement action simply because the plans indicated a different outcome.

4 PLANNING CONSIDERATIONS - DOOR

- 4.1 The original plan, referred to above and considered at the 19 February meeting of the District Council's Planning Committee, indicated only a single door on the rear elevation. This was a pre-existing door. No discussion or conditions were directed at this door which was presumably felt to be acceptable to the Committee.
- 4.2 The revised plans considered at the 4 March meeting, on the other hand, showed five doors on the rear elevation. This led the Committee to impose a condition that stated "that all doors on the rear elevation be deleted from the proposed alterations."
- 4.3 The Committee in deciding whether or not to take action against this door must assure itself that the door is indeed contrary to the above condition and that it is sufficiently damaging to justify remedial action.
- 4.4 The condition states "that all the doors on the rear elevation be deleted from the proposed alterations." The applicant deleted all the new doors but retained this pre-existing one, presumably on the basis that it did not form part of the "proposed alterations", i.e. it was existing and was simply to remain. In support of this presumption or interpretation, is the fact that the Committee did not object to the existence of this door in the original, "approved" plans.
- 4.5 The door in question is located at the far end of the building from the objector's curtilage and is largely screened by the bulk of the projecting chimney referred to above.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no significant financial implications.

6 CONSULTATION

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

7 CONCLUSION

- 7.1 On both counts but most particularly the chimney issue, there are doubts whether enforcement action can be justified, either in terms of the planning history of this development or the justification or need to secure their correction or compliance. I do

not believe that a serious visual or residential amenity detraction is being created by either of these alleged breaches. If the same conclusion was reached by a Reporter appointed to adjudicate on a probable appeal, the Council's case would almost certainly be dismissed. Accordingly it is considered that no action be taken in this instance.

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/IAL
24 July 1996

Alex Anderson
Director of Planning, Transport & Economic Development

