

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

26 SEPTEMBER 1996

SUBJECT: ADVERTISEMENT CONSENT APPEAL DECISION AND
ENFORCEMENT NOTICE APPEAL
THE GARAGE, NORTH GRIMSBY, ARBROATH

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 advertisement consent at The Garage, North Grimsby, Arbroath and also appeal against the Enforcement Notice instigated by the Council.

1 RECOMMENDATION

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

2 INTRODUCTION

2.1 Angus District Council's Planning and Development Committee at their meeting on 17 October 1996 refused advertisement consent for the erection a hoarding at The Garage, North Grimsby, Arbroath. Authorisation to instigate enforcement action was also approved at that time. (Ref. No. 03/95/1020).

2.2 The applicants, Maiden Outdoor Advertising, appealed against the refusal and the enforcement notice and the Inquiry Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

3.1 Regulation 4(1) limits the exercise of the powers over the control of advertisements solely to the interests of amenity and public safety. These matters are elaborated in Regulation 4(2). Accordingly, on the basis of the site inspection and written submissions, I find that the hoarding which has been erected has no implications for public safety. The determining issue in the appeal against the refusal of advertisement consent is therefore whether the display would be contrary to the interest of amenity.

3.2 With regard to amenity, the Secretary of State's policy, contained in SDD Circular 10/1984, states that advertisements are an integral part of modern commercial life and that their presence in many street scenes will enhance and improve the environment by adding colour and interest. Planning authorities are therefore encouraged to consider proposals for the display of advertisements in as favourable a light as possible. The policy also recognises that planning authority guidelines may often serve a useful purpose but points out that failure to conform with policy should

not be cited as a sole reason for refusal of express consent and that each application must be considered on its own merits.

- 3.3 This part of Arbroath has an attractive character being close to the town centre which is designated a Conservation Area. Despite the existence of a number of commercial premises in the vicinity, including the building on which the hoarding has been erected, the advertising which is in place is generally discrete but effective. Advertisement hoardings are, by their nature, intended to be conspicuously sited so as to draw attention to the advertiser's message. I find this hoarding has an unfortunate and intrusive impact on the amenity of the street scene both due to the size of the hoarding relative to the building on which it is mounted and the proximity and quality of the adjoining Conservation Area. I note your antipathy towards the application of the Council's policy. I find, however, that the display is contrary to the interest of amenity and that, relative to the terms, there would be no off-setting benefit through screening a visually offensive site or view.

4 ADVERTISEMENT ENFORCEMENT NOTICE APPEAL

- 4.1 The enforcement notice was served for similar reasons to those which led the Council to refuse advertisement consent for the erection of the hoarding. The notice requires that the hoarding be removed within seven days of the date on which it takes effect.
- 4.2 Your appeal against the enforcement notice was made on the grounds contained in Regulation 25(1)(c); i.e. that the specified period for compliance with the notice falls short of what should reasonably be allowed.

5 CONCLUSIONS ON THE ADVERTISEMENT ENFORCEMENT NOTICE APPEAL

- 5.1 Regulation 25(1) limits the grounds of appeal against an advertisement enforcement notice to matters of legal status and procedure, and does not permit an appeal to be pursued on the basis of the merits of the display, in terms of its effect upon amenity and public safety. Accordingly, I consider that the issue to be determined is whether the seven day period specified for compliance with the notice falls short of what should reasonably be allowed.
- 5.2 There is no dispute that the breach of advertisement control alleged in the enforcement notice has occurred. The hoarding is fixed to the gable wall of the building and its safe removal would require the erection of some form of temporary structure. I find that it is unrealistic to anticipate that could be instructed and works undertaken within a period of seven days. Regulation 25(6) gives the Secretary of State power to vary the terms of the notice in favour of the appellant. I therefore propose to invoke that provision by substituting the longer period for compliance of 28 days.

6 DECISION ON APPEALS

- 6.1 Accordingly, in exercise of the powers delegated to me, I hereby dismiss the advertisement consent appeal; I also dismiss the appeal against the advertisement enforcement notice dated 5 December 1995, and I direct that the notice be upheld subject to the variation of its terms by the deletion of the words "seven days after this

notice takes effect" and the substitution therefore of the words "28 days after this notice takes effect". I have taken account of all other matters raised in the submissions but those do not outweigh the considerations on which my decision is based.

7 FINANCIAL IMPLICATIONS

7.1 There are no financial implications.

8 CONSULTATION

8.1 The Director of Law & Administration and the 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/RMcN/IAL
18 September 1996

Alex Anderson
Director of Planning, Transport & Economic Development