

**ANGUS COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**13 NOVEMBER 1997**

**SUBJECT: PLANNING APPEAL DECISION -  
OATHLAW PARISH CHURCH, ANGUS**

**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 of Angus Council to grant consent for the conversion of Oathlaw Parish Church building to a silversmith workshop, showroom and flat, together with development of adjacent ground for car parking and landscaping.**

**1 RECOMMENDATION**

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

**2 INTRODUCTION**

2.1 The Development Control Committee at the meeting on 24 October 1996 refused planning permission for the conversion of Oathlaw Parish Church building to a silversmith workshop, showroom and flat, together with development of adjacent ground for car parking and landscaping (application No. 01/96/1490).

2.2 The applicant, Mr. G. D. Rankin, appealed against the refusal and the Reporter's conclusions and decision are presented below.

**3 REPORTER'S DECISION**

3.1 Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the appeal be determined in accordance with the development plan unless material considerations indicate otherwise. I find that in this case the approved structure plan policies are not directly relevant and that there is no adopted local plan covering the area concerned. Accordingly, on the basis of the written submissions and the site inspection, I consider that the determining issues in this appeal are: (1) whether the proposed development would serve to preserve the church and its setting as a listed building; (2) whether the principle of the proposed development would be acceptable in terms of the amenity and setting of the appeal site and its immediate environs; and if so (3) would the detailed proposals be satisfactory in terms of building design and conservation, access and drainage in the context of the appeal site.

- 3.2 In relation to the first determining issue, I find that no evidence has been presented by the Council or by the objectors to indicate that your proposals would be materially detrimental to the preservation of the church as a listed building. I am satisfied that the details of the proposed building conversion plans which you have submitted would conserve the building and its inherent historical and architectural features. I conclude that your client's proposals would serve to preserve the church and its settings as a listed building.
- 3.3 With regard to the second determining issue, I note that whilst the church building is owned by your client, the cemetery surrounding it is in the control of the Council. I also note that your client owns the parcel of land immediately to the west of the cemetery (proposed as a car park), and has a right of pedestrian access from there to the church via the West Gate entrance to the church grounds. I find, however, that this is also the main entrance to the cemetery and would continue to be so in the event that your client's proposals were granted planning permission. I therefore have to consider your client's proposals as involving shared access to the West gate with those who visit the cemetery either for burial services or to attend the graves of family members or friends. I also note that the path leading from the West Gate to the entrance of the proposed silversmith workshop and showroom, located near the north-west corner of the church, would also be shared. I find that this would be used by your client (for residential and business access) and by his customers, as well as by other visitors tending graves which are located along its length. I note that there are no proposals to mark the edge of this shared path which is at grade with the grass covering the adjoining graves.
- 3.4 There are a significant number of objections to your client's proposals from local people who point out that the graveyard is still used for burials. I am persuaded by their arguments, endorsed by the Council, that the proposed access arrangements are such that it would be difficult to retain a satisfactory level of peace and privacy if the church is operated and marketed as a silversmith workshop with an integral customer showroom. Whilst I am reasonably satisfied that the noise generated within the building, associated with its use as a craft workshop and residential flat, could be suitably controlled by conditions to safeguard the amenity of the graveyard and its environs, I find that the proposals to accommodate visitor access to your client's business would result in an unavoidable and unacceptable loss of amenity at the adjoining graveyard. Furthermore, I find that this situation could not be readily resolved by demarcation of the edge of the path to be used by visitors to the craft workshop, as the whole graveyard area is intended to be generally accessible to those attending burials or existing graves, and so would be open to visitors attending the silversmith showroom. With specific reference to the development of visitor facilities (in particular the showroom), I am therefore persuaded by the Council's argument that the principle of the proposed use is incompatible with the continuing graveyard use of the surrounding curtilage ground. I am also concerned that if the proposed venture proved to be particularly successful in attracting visitors, this would lead to an exacerbation of the potential problems outlined above. Based on all of these considerations I conclude that in principle the proposed development would be materially detrimental to the amenity and setting of the appeal site and its immediate environs, and hence would be unacceptable.

- 3.5 Since the principle of the proposed development is unacceptable, it is not necessary for me to consider the third determining issue in this particular case. I have taken account of all the other matters raised in the submissions but none outweighs the considerations leading to my conclusion. Accordingly, in exercise of the authority delegated to me, I hereby dismiss your client's appeal and refuse to grant outline planning permission for the development to which it relates.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

#### **5 CONSULTATION**

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

#### **6 CONCLUSION**

#### **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/GC/IAL  
5 November 1997

Alex Anderson  
Director of Planning, Transport & Economic Development

