

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

13 MARCH 1997

**SUBJECT: PLANNING APPEAL DECISION
OLD WHISKY ROAD, AUCHTERHOUSE**

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 erection of two dwellinghouses at Old Whisky Road, Auchterhouse.

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 13 June 1996 refused Planning Permission for the erection of two dwellinghouses in the grounds of "Errochty" and "Fairheight", Old Whisky Road, Auchterhouse (application No. D21637).

2.2 The applicants, N. and C. Moir and D. and V. Jarrow appealed against the refusal and the Reporter's conclusion and decision are presented below.

3 REPORTER'S DECISION

3.1 Section 18A of the Act requires that my determination shall be made in accordance with the development plan unless material considerations indicate otherwise. Accordingly on the basis of the written submissions and the inspection of the appeal site and its surroundings. I consider that the determining issue is whether the proposed development can be provided with a suitable and safe road access.

3.2 Considerable discussion has centred around the number of houses acceptable to Angus Council Roads Department (formerly Tayside Regional Council Roads Department) accessed from a privately maintained road. It has been stated by Angus Council that there are currently 16 houses accessing the road. It would appear to me that, for a number of reasons, the Local Authority have, in the past, given Planning Permission, both outline and full, for development in excess of their stated policy. Whether or not the proper consultation process was carried out in the case of the "Ont Rocs" approval is not of major significance in my opinion. However it is my opinion that, whatever reasons may have been given for those earlier permissions,

no material justifications have been advanced as to why this particular application should be approved, should it be contrary to adopted Development Plan policies. I am satisfied that, in terms of the Development Plan, it would be inappropriate to sanction further development accessed by Old Whisky Road where the junction with The Brae, in the present form, is required to be utilised for additional vehicular and pedestrian traffic. This junction is potentially dangerous, sight-lines are almost non-existent and it would appear to be generally acceptable that significant improvement is not possible. I also note that the "additional" 16 houses which have been granted consent, subject to a Section 50 Agreement on drainage, and adjacent to "Funny Neuk" are unlikely to require any access to Old Whisky Road.

- 3.3 From my personal observation, I take the view that the proposed access track known as Old Whisky Track, is of an unacceptable standard, in its present condition, to cater for additional development. I note that you have offered to carry out certain improvements but I consider them to be inadequate and incapable of securing a safe and satisfactory access to the proposed development. I also take the view that approval of this proposed sub-division of existing garden ground could be considered to form a precedent which could lead to further similar applications. Any increase in traffic using Old Whisky Track would conflict with criterion E of Policy P14 and criterion 11 of Policy P4 of the Dundee Rural Areas Local Plan.
- 3.4 I agree that the proposed sites occupy prominent south facing locations with significant contour changes. With the limited detailed information provided to me I am not prepared to form any view as to the ability of the designers to create a development which would be sympathetic to its surroundings and its setting. I note the comment contained in Advice Note No. 5 regarding excessive underbuilding. It also states that a sloping site may demand a unique solution. It is not uncommon, in situations such as this, for a Planning Authority to request detailed plans at the outline stage. In view of my previous comments contained in paragraphs 20 and 21 and the absence of detailed design proposals I do not consider that sufficient evidence has been provided to justify refusal of Planning Permission exclusively on the grounds of design and impact on the environment. I have taken account of all the other matters raised in the submissions but these are not sufficient to outweigh the considerations on which my decision is based.
- 3.5 For these reasons and in exercise of the authority delegated to me, I hereby dismiss this appeal and refuse outline Planning Permission for the development proposed in the application dated 8 January 1996.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications.

5 CONSULTATION

- 5.1 The Chief Executive, 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
27 February 1997

Alex Anderson
Director of Planning, Transport & Economic Development

