

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

13 MARCH 1997

**SUBJECT: PLANNING APPEAL DECISION
WHINNYDRUM, FORDMOUTH, ABERLEMNO**

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 a dwellinghouse at Whinnydrum, Fordmouth, near Aberlemno.

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 26 September 1996 refused Planning Permission for the erection of a dwellinghouse and garage at Whinnydrum, Fordmouth, Aberlemno (application No. 01/96/1488).
- 2.2 The applicants, Mr. and Mrs. A. Bell appealed against the refusal and the Reporter's conclusion and decision are presented below.

3 REPORTER'S DECISION

- 3.1 On the basis of the written submissions and site inspection, I consider that the determining issues in this appeal are whether the proposal would be in accordance with the terms of the Development Plan; and, if it is not, whether there are grounds for the grant of an exceptional consent.
- 3.2 In relation to the Development Plan, I note that the draft 1988 Rural Local Plan, whilst not having the full force of an adopted Local Plan, has been applied consistently over the years by the Planning Authority. Moreover, it is clear that the policies in relation to housing in the countryside follow closely the thrust of both circular 24/1985 and NPPG3. In these circumstances and given the content of section 18A of the Act, I consider that considerable weight should be accorded to the policies in the 1988 plan. Policy H1 in the draft Local Plan provides a series of tests against which individual applications for houses in the countryside can be evaluated. I regard these tests as representing a balanced and reasonable framework against which the planning merits of the proposed house can be assessed.

- 3.3 Prior to applying the policy H1 criteria to your clients' proposal, it is important to note that the appeal site falls within the Forfar Rural Settlement Unit where the category 1 designation indicates that a more restrictive approach to development should prevail. Accordingly, the draft Local Plan should be applied in a strict rather than in a permissive manner. As the first criterion of housing for an essential worker does not form part of your clients' case, it is not applicable to this appeal. With regard to the presence of a cohesive group of four buildings, I note that the appeal site lies some 400 metres from Fordmouth (where there are three houses, together with one additional nearby dwelling). The combination of the distance and the open land between the appeal site and Fordmouth indicates that the proposal at appeal does not meet the cohesive group test. In reaching this view, I have taken into account the fact that there is a shelter belt along the B913 but find that this feature, in itself, cannot create a cohesive group. This is particularly the case when the whole of the southern boundary and a substantial part of the western boundary are not defined by any natural or man-made features and would have to be created out of an open field. Similarly, in the absence of nearby structures, your clients' proposal cannot conform with the infill criterion.
- 3.4 In relation to a replacement building, I note that the site inspection showed that the remaining walls of the croft are some one metre high at their highest point, are in a ruinous state and give little indication of the overall scale and character of the former structure. Moreover, the submissions in relation to Ordnance Survey Maps shows that the above situation has existed for over 30 years. In these circumstances, I find that the very limited remains of the croft do not meet any reasonable interpretation of a replacement of a former building and that, if permission were to be granted in these circumstances, it would set an undesirable precedent for other ruins in the countryside. In relation to the first determining issues, I conclude that the appeal proposal does not meet the criteria in policy H1; that the Council's housing in the countryside document does not override the provisions of the Development Plan; and that Planning Permission should be withheld on this basis.
- 3.5 Turning to special circumstances, I note that your client submits that the Council has applied policy in an uneven manner; that local services should be supported by the construction of new houses; and that a house could be located within the 0.5 hectare appeal site in a sensitive manner, thereby creating an appropriate countryside development. With regard to the six houses identified by your client as setting a precedent, I note that minimal details have been submitted in relation to their planning history. It would appear however from the brief comments by the Planning Authority that these permissions were issued some years previously prior to the preparation of the 1988 Plan. Moreover, I note that the Council, whilst being unaware of the background to the expired 1971 consent, has consistently refused consent for a house at "Whinnydrum" in 1983, in 1987 and in 1995. From the submissions and the site inspection, I am not persuaded that there has been any material change in circumstances in relation to the appeal site that would justify the reversal of the well established national and local policy framework towards isolated housing in the countryside.

- 3.6 Whilst I accept that the 0.5 hectare appeal site is large enough to accommodate a substantial dwelling, I find that, however located, designed and landscaped, it would not relate sympathetically to the nearby, established housing at Fordmouth (which is some 400 metres distant). Moreover, none of the submissions have demonstrated that there is any special service related argument that justifies a house being constructed at "Whinnydrum" rather than in the locations identified for residential development in the draft Local Plan. I find that there are no circumstances that would justify the grant of an exceptional consent.
- 3.7 I have taken into account all the other matters raised but none outweighs the considerations leading to my conclusions. Accordingly, in exercise of the authority delegated to me, I hereby dismiss your clients' appeal.

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

