

ITEM No. 6 (a)

Report No 512/97

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

6 MAY 1997

**SUBJECT: PLANNING APPEAL DECISION
9 EAST 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 of Angus Council to grant consent for change of use of office to a residential flat at 9 East Grimsby, Arbroath.

1 RECOMMENDATION

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

2 INTRODUCTION

- 2.1 The Planning and Development Committee of Angus District Council at the meeting on 4 December 1995 refused Planning Permission for change of use of an office an operational garage and glaziers to create a residential flat at 9 East Grimsby, Arbroath (01/05/1250).
- 2.2 The applicant Mr A Stewart appealed against the refusal and the Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

- 3.1 Section 18A of the Act requires this appeal to be determined in accordance with the provisions of the development plan unless material consideration indicate otherwise. In this case no part of the development plan has been drawn to my attention by the parties as being relevant to the determination of the appeal. Thus, on the basis of the written submissions and the site inspection, I consider that the determining issue in this appeal is whether the proposed development can achieve a reasonable standard of residential amenity.
- 3.2 In terms of this issue I consider that, from the evidence of the site inspection, there have been recent housing developments in the vicinity and that the appeal site is situated in an area which is capable, in general terms, of providing a satisfactory residential environment. Nevertheless, in determining this appeal I have to deal with the specific circumstances of the case. At the site inspection it was clear that the proposed change of use involves vacant office premises, which are located above an existing car repair workshop and a glazier's business. In these circumstances, the relationship of the proposed residential flat to the commercial premises is a matter which I require to take into account.

- 3.3 I accept that the use of the glazier's premises, which lie below the existing flat, would be unlikely to have a detrimental effect on the residential amenity of your client's proposal. However, in my opinion the main issue in this appeal is the position of the proposed flat directly above the car repair workshop. The floor between the proposed residential flat and the workshop would be all that separated the 2 uses. I note that you indicate that the floor has been treated for fire resistance and sound transmission, but I am not satisfied that would provide adequate segregation of the activities and protection for the residential amenity of the proposed flat. In my view, the noise and fumes associated with the car repair business the movement of vehicles into and out of the service yard and the general level of activity, would be likely to intrude on the residential amenity to an unacceptable degree. I also consider that the use of the car repair workshop may involve the movement of vehicles in the early morning. Any disturbance at this time of the day is likely, in my view, to be particularly intrusive. Therefore, I find that, in the circumstances of this case, the close proximity of the car repair business and the proposed residential use would not be compatible.
- 3.4 I am aware that you have argued that there were no complaints about noise or fumes when the premises were in use as an office. However, I do not accept your contention that the residents of the proposed flat would be no more likely to complain than the occupiers of the office premises. In my opinion, if the proposed change of use was granted consent, the scope for conflict would become greater and the potential nuisance problem more acute.
- 3.5 I also note that your client has indicated that it is likely that the proposed residential unit would be occupied by a member of his family. I appreciate that as a result, you believe, the potential resident of the house may not be as concerned about the proximity of the car repair business. However, the fact that you believe that the prospective occupier may not be concerned over this matter is not relevant to my determination of this appeal. This is because any occupant of a dwellinghouse is entitled to expect a reasonable quality of residential environment. I therefore have to consider whether the proposed dwelling would provide an acceptable residential environment for individuals who may live there in the future. As stated above, I believe that there is likely be an unacceptable degree of noise and disturbance in the proposed flat. Consequently, in terms of the determining issue I conclude that the proposed change of use and conversion of the office premises would not achieve a reasonable standard of residential amenity.
- 3.6 I have taken account of all the other matters raised, but none outweighs the considerations which lead to my conclusions. Accordingly, in exercise of the authority delegated to me, I hereby dismiss this appeal and refuse to grant outline planning permission for the proposed development.

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/SP/IAL

24 April 1997

Alex Anderson
Director of Planning, Transport & Economic Development

