

ITEM No. 6 (d)

Report No 516/97

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

6 MAY 1997

SUBJECT: PLANNING APPEAL DECISION
FERRYTON, HILLSIDE ROAD, FORFAR

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 Ferryton, Hillside Road, Forfar.

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 in garden ground at Ferryton, Hillside Road, Forfar (01/96/1440).
- 2.2 The applicant Mr W R MacPherson 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 development plan unless material considerations indicate otherwise. On the basis of the written submissions and the site inspection, I consider that the first determining issue in this appeal is whether the proposal would be in accordance with the terms of the Forfar Local Plan. The other determining issues are whether the proposal would harm the character and amenity of the locality; whether the proposal would be premature in respect of drainage facilities for the area; and whether the proposal would create an unacceptable precedent.
- 3.2 Policy 8.1.18 of the local plan sets out a general presumption against significant change, except for areas specified in the plan. I consider that the proposal would amount to significant change within this locality and, therefore, be contrary to the plan. I come to that conclusion in the light of the proposed changes to the density and pattern of development and loss of mature trees. However, in doing so, I am mindful of the fact that the plan is now 13 years old and, therefore, that changes might now be appropriate in certain parts of the plan area, but not indicated in the existing plan. The council's intention of preparing a fresh plan lends weight to that view. The council suggests that further protection in the form of conservation area status is likely in the forthcoming plan, but it is clearly too early for that to be a material policy consideration.

- 3.3 Turning to the character and amenity of the locality, the appeal plot would be smaller than any of its neighbours on this part of Hillside Road and would, in my view, be out of character thereby. Its construction on a steeply sloping site would contrast with the more level sites of established dwellings in the area and look out of place. The position of the plot on the frontage to Hillside Road would render the above characteristics more apparent. The loss of mature trees in order to accommodate the building and allow for sufficient daylight would be considerable and damaging to the amenity and character of the immediate environs. It would also reduce the impression of generous tree cover in longer distance views, thereby reducing the effectiveness of this attractive backdrop to the town.
- 3.4 The problem relating to drainage within Forfar is not disputed. However, your case is that consent should be granted subject to a suspensive or similar condition relating to completion of the projected waste water treatment works for the town. The council states that NOSWA expects the treatment plant to be completed by mid-1998 at the earliest and not to be fully operational until 1999. The time-limits which would normally be imposed on any grant of outline consent and subsequent reserved matters application would extend beyond 1999. The test for whether a suspensive condition is reasonable, as set out in Scottish Development Department Circular 18/1986, is that there should be at least reasonable prospects of the action in question being performed within the time-limit for commencement of development imposed by the permission. I consider that the test is met in this instance, based on the dates supplied by the council. I am not persuaded that the council's arguments against such a condition justify withholding consent on this ground. I am, therefore, led to the view that this leg of the council's reasons for refusal could be overcome by a suspensive condition.
- 3.5 The issue of precedent has been raised by the council. If this development were to go ahead, I consider that there would be other locations nearby where pressure might be exerted for similar development within the grounds of large residential properties. Whilst I would not wish to venture any opinion on the acceptability of plot sub-divisions in principle on Hillside Road, the appeal proposal would set an undesirable precedent by its particular characteristics and its approval could lead to difficulties for the council in resisting unsuitable schemes.
- 3.6 In summary, the proposal does not accord with policy 8.1.18 of the adopted local plan (although I do not place full weight on this matter for the reasons given), the proposal would be harmful to the character and amenities of the locality, and it would set an undesirable precedent. I consider that the council's objection with respect to drainage matters could be overcome by a suspensive condition, but the need for this does not arise in view of my other conclusions.
- 3.7 I have taken account of all the other matters raised, but none outweighs the considerations leading to my decision. Accordingly, in exercise of the authority delegated to me, I hereby dismiss your client's 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/SP/IAL

24 April 1997

Alex Anderson
Director of Planning, Transport & Economic Development

