

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

3 DECEMBER 1998

SUBJECT: PLANNING APPEAL DECISION
240C HIGH STREET, ARBROATH

REPORT BY DIRECTOR OF PLANNING AND TRANSPORT

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 flat to office at 240C High Street, Arbroath.

1 RECOMMENDATION

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

2 INTRODUCTION

- 2.1 The Development Control Committee at the meeting on 13 August 1998 refused planning permission for the change of use of a first floor flat at 240C High Street, Arbroath, to an office (application No. 01/98/0388).
- 2.2 The applicant, Strathtay Retail Ltd. appealed against the refusal and the Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

- 3.1 Section 64 of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 requires Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area when exercising any powers under the Planning Acts. I do not believe that the change of use detracts from the character or appearance of the Arbroath Conservation Area and the granting of permission would not be contrary to the requirements of Section 64.
- 3.2 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires the determination of your client's appeal to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In this instance the Council has indicated that there are no Development Plan policies affecting the proposal. I therefore consider that the determining factor is whether or not the development reduces existing residential amenity of others living at 240 High Street to an unacceptable degree.

- 3.3 Reference has been made to the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the class into which the development falls. As the office is not intended to provide a service principally for visiting members of the public and its role is principally administrative, I have concluded that the appropriate category is Class 4(a). Such a use can be carried out in any residential area, without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. I have no reason to believe that your client's operation is prohibited under any of these categories.
- 3.4 I consider that it is necessary to have special regard to the potential impact of any change of use on the amenity of a tenement staircase especially, as in this case, where the previous use has been entirely residential other than, perhaps, the shop fire escapes on the ground floor. In this instance, the level of activity is unobtrusive and there is no other significant impact on residential amenity. I am not persuaded that the circumstances are other than those which the Council's policy would regard as being acceptable.
- 3.5 I recognise the concern of the Council about the potential for changes to other categories within Class 4. However, I note that your client is agreeable to a personal and temporary permission. Whilst a personal permission is unusual, I consider that such a restriction would not be inappropriate. I am also of the opinion that any activity should be specifically limited to Class 4(a) although I do not believe it is feasible to impose a condition limiting access to visitors. As argued by the Council, such a condition would be unenforceable.
- 3.6 All-in-all, I have concluded that the change of use is not detrimental to the residential amenity of the other flats at 240 High Street and has no significant impact on those who share the staircase. I have taken account of all the other matters raised, including the references to the availability of ground floor premises and the vitality of the town centre, but they do not alter my conclusions. Accordingly, in exercise of the authority delegated to me, I hereby allow your client's appeal and grant planning permission for the change of use of 240C High Street, Arbroath, from residential to office purposes subject to the following conditions:-
- (a) The office approved by this permission shall be operated only by Strathtay Retail Limited (SRL) for a purpose falling within Class 4(a) of the Town and Country Planning (Use Classes) (Scotland) Order 1997.
- (b) The permission is temporary and shall expire on 30 November 2002 unless extended by the Planning Authority prior to that date.

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.

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
25 November 1998

Alex Anderson
Director of Planning and Transport

