

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE

20 OCTOBER 2009

SUBJECT: PLANNING APPEAL DECISION
LAND ADJACENT TO THISTLE COTTAGE, WOODVILLE, ARBROATH, DD11 2QW

REPORT BY DIRECTOR OF INFRASTRUCTURE SERVICES

| |
|--|
| <p>Abstract: This report presents the findings of the Reporter appointed by the Scottish Ministers to determine the appeal by Mr & Mrs Gersok against a planning condition attached by Angus Council to grant a planning permission for the erection of a dwellinghouse on land adjacent to Thistle Cottage, Woodville. The appeal was allowed and condition 6 deleted.</p> |
|--|

1 RECOMMENDATION

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

2 INTRODUCTION

2.1 Application No 08/01392/REM for the erection of a dwellinghouse was granted on 26 May 2009 subject to conditions. The applicant, Mr & Mrs P Gersok appealed against condition 6 of the approval, viz.:-

6. That the doors and balcony on the south elevation of the dwellinghouse as indicated on drawing number 04b is not approved. Prior to the commencement of development amended plans showing a window at this location shall be submitted for the written approval of the council as planning authority.

Reason: To ensure that the proposed building reflects the character of properties in the surrounding area.

2.2 The Reporter's conclusions and decision are presented below.

3 REPORTER'S DECISION

3.1 The determining issues in this appeal are (a) the impact which the doors and balcony would have on the character and visual amenity of the surrounding area and (b) whether condition 6 meets the tests for conditions contained within Circular 4/1998: The Use of Conditions in Planning Permissions.

3.2 The proposed dwelling is to be erected on a gap site located within a small cluster of existing detached dwellings sitting within open countryside. The dwelling would sit back between 11m and 12m into the site and is designed to take advantage of the open views to the south towards Arbroath and the sea. The doors and balcony which are the subject of this appeal would be positioned within that part of the dwelling with a gable-end facing the road, and would serve a first floor lounge.

3.3 Policy S3 of the adopted Angus Local Plan Review requires that a high quality of design is encouraged in all development proposals. Policy S6 requires (through criterion b of Schedule 1: Development Principles) that proposals should not result in unacceptable visual impact. The supporting text to policy Wv1 specifically refers to the continued pressure for housing and other urban uses, to the detriment of the countryside character of the area. I take this policy to refer to the principle of whether certain types of development should be permitted within the area, but note nonetheless the council's stated concerns in regard to the urbanisation of Woodville.

- 3.4 Although located within open countryside, the proposed dwelling would be viewed in the context of the building cluster. Three dwellings within the group are older and of vernacular design, but two, including 'Sea View' immediately to the east of the appeal site, are of more recent construction and of a less vernacular design. I could see no evidence of balconies in the area but do not consider such a feature to be materially at odds with the overall design of the proposed dwelling and that of 'Sea View' and 'Alamar'. Indeed, it is significant that the council does not appear to have taken exception to similar doors and a balcony proposed for the master bedroom, also located on the south elevation.
- 3.5 The combination of the positioning of the dwelling relatively far back into the site, the non-vernacular design of the dwelling and the context established by nearby residential development leads me to find that the doors and balcony would have a neutral impact on the character and visual amenity of the surrounding area and that there is, consequently, no conflict with the policies of the development plan. This conclusion relates of course only to the specific circumstances of this case.
- 3.6 Turning to the second determining issue, Circular 4/1998 requires that conditions attached to planning permissions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. As I have found above that the inclusion of the doors and balcony on the south elevation of the proposed dwelling would have an insignificant impact on the character and visual amenity of the surrounding area, I find condition 6 to be neither necessary nor reasonable.
- 3.7 I consider it appropriate therefore, to vary the terms of the approval of reserved matters by deleting condition 6. I have considered all other matters raised but find none to outweigh the considerations set out above.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications.

5 HUMAN RIGHTS IMPLICATIONS

- 5.1 There are no Human Rights implications.

6 EQUALITIES IMPLICATIONS

- 6.1 The issues contained in this report fall within an approved category that has been confirmed as exempt from an [equalities](#) perspective.

ERIC S LOWSON
DIRECTOR OF INFRASTRUCTURE SERVICES

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 a material extent in preparing the above report.

P&T/GWC/AH/IAL
9 October 2009