

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 10 DECEMBER 2019

PLANNING APPEAL DECISION: UNITS 4A - 9 CRAIG O'LOCH ROAD, FORFAR

REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES

Abstract:

This report presents the findings of the Reporter appointed by the Scottish Ministers to determine the appeal by Taylor Shepherd against the decision by Angus Council to refuse planning permission for the use of lock ups for Class 5 (General industrial) and Class 6 (Storage and distribution) purposes at Units 4A – 9 Craig O'Loch Road, Forfar. The Reporter dismissed the appeal and refused planning permission.

1. RECOMMENDATION

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

2. INTRODUCTION

2.1 At its meeting on 6 August 2019 Committee refused planning permission in principle for the use of lock ups for Class 5 (General industrial) and Class 6 (Storage and distribution) purposes at Units 4A – 9 Craig O'Loch Road, Forfar. (Report [248/19](#) refers).

2.2 The applicant, Taylor Shepherd appealed against the refusal and the Reporter's conclusions and decision are presented below.

3. REPORTER'S DECISION

Decision

3.1 I dismiss the appeal and refuse planning permission.

Preliminary

3.2 A related enforcement notice appeal (ENA-120-2015) is also under consideration and is the subject of a separate decision notice.

Reasoning

3.3 I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan for this site is comprised of TAYplan (2017) and the Angus Local Development Plan (LDP) (2016). No strategic issues have been raised in this appeal, so the LDP is the focus of the determination.

3.4 Having regard to the provisions of the development plan the main issue in this appeal is the effect on the amenity of the residential properties neighbouring the site to the east.

Development plan

3.5 I consider that the key development plan provisions are LDP policies DS4: Amenity and TC15: Employment Development. Both policies are supportive of employment uses in this area, as long as there is no adverse effect on amenity.

3.6 The appeal relates to the proposed use of 9 units in a single storey, brick built block on the east side of Craig O'loch Road. There are no proposed alterations to the external appearance

of the building. There is an external yard to the east of the block and car parking to the west. All of the units open on to the parking area. The northern-most unit also has an opening on to the yard and there are 2 boarded up windows on the north and east elevations. There is a change in levels between the proposed site and the neighbouring houses, which lie beyond the yard to the east, with wooden fencing and soft landscaping along that boundary, comprising a mixture of evergreen and deciduous trees and shrubs.

- 3.7 The units currently have consent for Class 4 (Business use) as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) ('the 1997 Order'). Class 4 allows for an industrial use provided it 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. The appellant has clarified that some of the units are currently operating as Class 5 and some as Class 6 of the 1997 Order.
- 3.8 The council found that the proposal would have an unacceptable adverse impact on amenity of surrounding area and neighbouring properties, in terms of air quality, levels of noise, odours, fumes and dust, contrary to LDP Policy DS4.
- 3.9 Noise is one of the main concerns raised by neighbouring residents. The council's Environmental Health team acknowledges that operating the proposed uses, both inside the units and in the external yard, could involve noisy processes. It considers that normal methods of controlling noise would be unsuitable and, instead, it recommends limiting operating hours and limiting the use of the yard to only storage purposes.
- 3.10 Even with controls on the use of the yard, I consider that it would still be possible to operate noisy processes from within the units themselves. Limiting operating hours would reduce the impact to an extent, for example, in the evenings, but there would still be potential for significant disturbance during a large proportion of each day. Whilst I note the change in levels, I consider that there is insufficient distance from the houses to mitigate noise from the units and, especially in winter, the trees are unlikely to have a significant effect in dampening noise.
- 3.11 Neighbours are also concerned in relation to the effect of burning of materials on odour and air pollution, and in relation to light pollution. I consider these matters could be effectively controlled by condition.
- 3.12 Taking these matters into account, I find that the uses would impact on the enjoyment that the residents of the neighbouring properties could reasonably expect to have, particularly in relation to noise. I find that this could affect both the gardens and the rear rooms of the houses, particularly those houses which directly back on to the site.
- 3.13 I find that the development plan would support the principle of employment uses which do not impact on residential amenity, such as Class 4 uses. I also note that the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) would permit a change of use from Class 4 to Class 6 (up to 235 square metres of floor space only) without the need for planning permission. I consider, however, that the current proposals would adversely affect the amenity of these properties to an extent that could not be controlled effectively by conditions. I therefore find that the proposals would be contrary to LDP policies DS4 and TC15.

Material considerations

- 3.14 I note that the construction of the houses on Queen Margaret's Gait post-date the buildings on the appeal site. However, the use of those buildings for Class 4 was confirmed more recently in 2009 and the Class 5 uses which may give rise to negative impacts remain unauthorised. I do not therefore find that the age of the houses would alter my decision.
- 3.15 I have considered the other uses, suggested by a tenant, which are alleged to operate comfortably alongside residential uses in the town. I note from the site visit that the mixing of business, industrial and residential uses is not uncommon in Forfar. Nevertheless, each application must consider the specific uses involved and the effect on their surroundings. I do not find that the circumstances of these other uses outwith the proposed site are material to this decision.

Conclusion

3.16 I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would still justify granting planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from 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 a material extent in preparing the above report.

REPORT AUTHOR: KATE COWEY

EMAIL DETAILS: PLANNING@angus.gov.uk

DATE: 29 NOVEMBER 2019