

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE –05 JANUARY 2017

ENFORCEMENT UPDATE

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report is an update on progress of Enforcement Cases which are of interest to the Development Standards Committee.

1. RECOMMENDATION

It is recommended that the Committee note the contents of this report.

2. BACKGROUND

An update on enforcement case matters where the Development Standards Committee has expressed an interest in enforcement proceedings is provided for each meeting of the Committee. The table format of the current caseload is attached overleaf.

3. DISCUSSION

In the period from 01 April to 13 December 2016, 216 new enforcement cases have been recorded and 176 cases have been closed. There are currently 219 cases that are subject of ongoing investigation.

4. OTHER IMPLICATIONS

There are no financial, human rights or equalities implications arising from this report.

5. CONCLUSION

In order to keep the Committee informed of progress in respect of enforcement case matters an updated report will be prepared for each Development Standards Committee meeting.

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.

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Date: 13 December 2016

APPENDIX 1: CURRENT ENFORCEMENT CASES

CURRENT ENFORCEMENT CASES

APPENDIX 1

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
08/00007	Strathmartine Hospital	08.01.2008	Deterioration in condition of listed building.	<p>The most recently fire-damaged building as well as the boiler house and the link buildings adjoining the main listed building have been demolished for safety reasons. The ground floor openings to the listed building, exposed by the demolition of the link buildings, have been built up with concrete blockwork.</p> <p>Council resolved to approve application 13/00268/EIAM (for the redevelopment of the hospital) at its meetings of 18 December 2014 and 12 February 2015. The application was subsequently called-in for determination by Scottish Ministers and on 17 September 2015 they issued a notification of intention to approve the application subject to conclusion of a Planning Obligation (Report No 395/15 refers).</p> <p>Ministers agreed to extend the period for concluding the Section 75 Planning Obligation for application 13/00268/EIAM until the end of September 2016.</p>	<p>The Planning Obligation has not been concluded within the period allowed by Scottish Minister. It is understood that discussion is ongoing between the owner and NHS Tayside regarding the terms of a clawback – which was agreed at the time of the owners purchase from NHS Tayside and requires further financial payments to the former owner where triggers are met. Resolution of this matter between those parties is required in order to conclude the Section 75. The applicants have requested a further extension of time to allow conclusion of negotiations with NHS Tayside. That request is currently being considered by Scottish Ministers. Building Standards continue to regularly visit the site to ensure the buildings remain boarded/ blocked up.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
12/00155	Site Due East of The Knowe Kinnaber Road Hillside	19.02.2013	Unauthorised use of site for siting of caravans.	<p>An Enforcement Notice was served on 18 April 2013 requiring the removal of the caravans.</p> <p>The matter was reported to the Procurator Fiscal however the Fiscal has advised that the case will no longer be progressed.</p> <p>Committee has instructed direct action to ensure removal of the caravans from the site and to achieve compliance with the Enforcement Notice.</p> <p>Discussion was held with the owner/occupier, including a meeting on 22 October 2015; where the occupants advised that they do not intend to vacate the site.</p>	<p>The Service is proceeding with formal enforcement action to remove the caravans. A supplier for the enforcement action to remove the caravans has been appointed. A storage site has been identified and the action will commence following a multi-service meeting to mitigate impacts on the family involved.</p> <p>At present it is understood that 3 touring and 1 static caravans are present on the site.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
12/00230	Barry & Downs Caravan Park Barry Carnoustie	18.02.2014	Allegation that the site is not being used as 'Holiday use' and that permanent residential accommodation of caravans may be taking place.	<p>A Planning Contravention Notice (PCN) was served on the owner of the site.</p> <p>The PCN Response Forms were returned on 30 May 2014.</p> <p>A Section 33A Notice was served on the owner of the site requiring the submission of a planning application for the use of the land for the siting of caravans for residential purposes.</p> <p>The site operator submitted an application for a Certificate of Lawful Use to cover the site. The application was refused on 3 April 2015 and the site operator submitted an appeal against the decision to the Scottish Government, which was dismissed on 2 September 2015.</p> <p>The site operator submitted a legal challenge against the decision of the Scottish Ministers to the Court of Session.</p> <p>The legal challenge was dismissed and the Reporter's decision of 2 September 2015 stands.</p> <p>Planning application 15/00506/FULL for the use of land for siting of park homes as a principal or primary or sole residence was submitted in response to the S33A Notice. The application was refused under delegated powers on 18 July 2016.</p>	<p>The site owner submitted a further application for a Certificate of Lawful Use (16/00428/CLU), which was refused on 28 August 2016.</p> <p>The applicant's agent has lodged an appeal in respect of the Council's decision with the Directorate for Planning and Environmental Appeals (DPEA).</p> <p>A further report on this matter will be presented to a future Committee to consider further action once the outcome of the current appeal is known.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
14/00176	Kohe Noor 20 - 22 St David Street Brechin DD9 6EQ	02.08.2016	<p>The erection of an illuminated white shop front fascia with individual red lettering on the principal elevation of a Category C Listed Building within Conservation Area without benefit of Listed Building Consent or Advertisement Consent.</p> <p>The painting white of mortar between stonework of the principal elevation of a Category C Listed Building without the benefit of Planning Permission.</p>	<p>Retrospective applications for Listed Building Consent and Advertisement Consent seeking to regularise the works were refused on the grounds that the works had an adverse impact on the special interest of the listed building, contrary to Policy ER15 of the Angus Local Plan Review 2009. Listed Building Enforcement Notices were served on the owners/ interested parties requiring the removal of the illuminated fascia and making good the wall where it was sited. The notices also required the removal of the mortar at the principal elevation and reinstatement with an acceptable lime mortar.</p> <p>The duration of these notices has now passed without the specified works being undertaken to resolve the breaches of planning control to the listed building and the parties are in breach of the notices.</p> <p>A report relating to the offence created through the non-compliance with the Listed Building Enforcement Notices was submitted to the Procurator Fiscal on 27 September 2016.</p>	<p>No response has been received from the Fiscal Service following receipt of report. The site operator was contacted regarding their intentions in relation to the matter but declined to comment.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00165	Land 125M West of North Mains Croft Logie Kirriemuir	02.08.2016	The site has been cleared of vegetation and the ground levelled with a layer of rubble and crushed stone. 1 static and 1 touring caravan have been brought on to the site.	<p>An Enforcement Notice was served on the landowner on 19 August 2016. The Notice becomes effective on 21 September 2016 should an appeal not be submitted.</p> <p>The Notice requires the developer to:</p> <ol style="list-style-type: none"> 1. Remove all the caravans from the site within 2 months of the date of the Notice becoming effective. 2. Remove drainage and services and reinstate the channels dug at the site within 3 months of the date of the Notice becoming effective. 3. Remove the rubble, hard core and earthen bund at the site and reinstate the land to a greenfield condition suitable for agricultural use within 3 months of the date of the Notice becoming effective. <p>The site owner submitted an appeal against the Enforcement Notice to the DPEA and submitted an application for retrospective Planning Permission (ref: 16/00738/FULL) for "Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure."</p>	The retrospective application for Planning Permission remains under consideration. The Reporter's decision on the Enforcement Notice was published on 23 November 2016. The Reporter allowed the appeal and corrected the terms of the notice to show that the earthen bund should be "levelled" rather than "removed" and varied the periods for compliance with the Notice to allow time for the current planning application to be determined and any appeal thereon to be decided (to remove the caravans from the site on or before 3 August 2017 and to complete the remaining steps on or before 3 September 2017).

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00202	Field 440M East of Cross Roads Cottage Balnuith Tealing	13.09.2016	Unauthorised use of the site for the siting of a static caravan	<p>A Temporary Stop Notice was served on the owner/occupier of the site preventing the siting of additional caravans or the undertaking of engineering works at the site. At that time one static caravan was present on site.</p> <p>A Planning Contravention Notice was served on the owner / occupier.</p>	<p>It was observed on 20 September 2016 that works have been undertaken and the installation of a septic tank is underway at the site. At present, the septic unit is not connected to the caravan or in service. This was in breach of the terms of the Temporary Stop Notice. The Temporary Stop Notice has now expired and no response has been received to the Planning Contravention Notice.</p> <p>There are now two static caravans present on the site.</p> <p>The owner of the caravans has been established and a further Planning Contravention Notice was served in person on 2 November 2016. The due date for the return of the completed Response Form was 25 November 2016 but it has not been returned.</p> <p>A title search has been instructed.</p> <p>An Enforcement Notice is being prepared for service on the owner / occupier once ownership of the land has been established.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00092	Field North Of The Bothy Gannochy Edzell		<p>The depositing of rubble, spoil and other building material in field which is an unauthorised engineering operation, without the benefit of Planning Permission and is causing an amenity impact.</p> <p>The clearance of an area of top soil at the field and formation of an area of hard standing and track within the field which is an engineering operation.</p>	<p>A Planning Contravention Notice was served on the developer in June 2016 following the depositing of rubble, spoil and other building material in field without the benefit of planning permission.</p> <p>Despite assurances from the developer and their agent that the material would be cleared from the site, a quantity of the material remains.</p> <p>The breach of planning control was exacerbated through the clearance of an area of top soil at the field and formation of an area of hard standing and track within the field without the benefit of planning permission.</p> <p>An Enforcement Notice was served on the developer on 07 November 2016.</p> <p>The Notice becomes effective on 10 December 2016 and requires the developer to undertake the following steps:</p> <ol style="list-style-type: none"> 1. Remove the rubble, spoil and other building material from the site within 1 month of the Notice becoming effective; 2. Remove the area of hard standing and track that has been formed at the field and reinstate the land to a greenfield condition suitable for agricultural use within 3 months of the date of the Notice becoming effective. 	<p>The developer's Solicitor has advised an appeal against the Enforcement Notice has been submitted to the DPEA.</p>