

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 31 MAY 2016

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 19 May 2016, 46 new enforcement cases have been recorded and 34 cases have been closed. There are currently 176 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.

REPORT AUTHOR: VIVIEN SMITH, HEAD OF PLANNING & PLACE

EMAIL DETAILS: PLANNING@angus.gov.uk

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APPENDIX 1: CURRENT ENFORCEMENT CASES

APPENDIX 1

CURRENT ENFORCEMENT CASES

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
02/00149	1 Broomwell Gardens Monikie	16.02.206	Untidy state of land surrounding the property	An Amenity Notice was served on the previous owners of the property and the Council subsequently undertook direct action to tidy the site on two separate occasions at a total cost of £32,214.18. The property was subsequently repossessed by the bank and sold at auction. The new owners were advised that the Amenity Notice was still valid and the new owners indicated that the property would be brought up to an acceptable condition by 31 January 2016.	The new owners are continuing with works to tidy the site with the aim of renovating the property. Building Warrant ref 15/00303/DOM4 has been granted in respect of the proposed works. Report No 68/16 presented to Committee on 16 February 2016 provided an update with regards to the condition of the property. Committee agreed a further period of 6 months to allow the property to be brought up to an acceptable condition. The owners were written to on 13 May 2016 reminding them of the decision of the Committee.
08/00007	Strathmartine Hospital	08.01.2008	Deterioration in condition of listed building.	Site visit by Members of the Committee held on 16 August 2010. The recommendations of Reports 653/10 and 219/11 were agreed by the Development Standards Committee at the meetings on 31 August 2010 and 8 March 2011 respectively. Reports 640/11 and 545/12 were agreed by Committee on 20 September 2011 and 18 September 2012 respectively.	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 notified to and subsequently called-in for determination by Scottish Ministers. On 17 September 2015 Scottish Ministers issued a notification of intention to approve the application. Report No 395/15, presented to Committee on 6 October 2015, provided details of the decision. The Council agreed to extend the period for concluding the Section 75 Agreement for application 13/00268/EIAM. To date however progress has been limited as discussion is ongoing between the owner and NHS Tayside. The site was recently subject to a further fire to the Ward 7 building; which is not listed and is proposed for demolition as part of application 13/00268/EIAM. The Building Standards service has written to the owners requesting this building is made safe and that additional security measures are put in place for the main listed buildings.

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. Further to the initially unsuccessful procurement process the Planning Service has provisionally identified and is in discussion with suppliers for the removal and storage of the caravan(s). At present it is understood that 2 touring and 1 static caravans are present on the site.</p>
12/00050	Joinery Workshop and Yard Douglstown By Forfar	27.08.2013	<p>Biomass briquette production plant operating without the benefit of planning permission.</p> <p>(The remaining breach relates solely to site levels in the former storage area)</p>	<p>SNH and SEPA have provided written confirmation that they do not object to a further scrape of the site being undertaken subject to the works being carried out in accordance with the previous Construction Method Statement, excepting the time frame. This will mean that all steps detailed in the CMS, including the use of geotextile curtains at the bank of the Kerbet water to protect the SAC, will be required for the works to be undertaken.</p> <p>The levels after the second survey are comparatively similar results to the initial set of levels. On the basis of this information, it was considered that the operator is still in breach of the Enforcement Notices.</p>	<p>The developer continues to dispute site levels recorded by Angus Council Property Services, however, Officers are confident the levels are accurate.</p> <p>The developer has been advised that he must either undertake further works at the site to achieve compliance with the levels specified in the Enforcement Notices or engage the services of a consulting engineer to provide an opinion on the current status of the site with regards to flood risk potential.</p> <p>The developer has been allowed until 27 May 2016 to advise of his intentions.</p> <p>The developer has been advised that continued failure will result in the matter being referred to the Procurator Fiscal due to the breach of the Enforcement Notices.</p>

12/00050 (contd)				<p>The operator has undertaken significant work towards achieving compliance. However full compliance has not been achieved.</p> <p>The developer has undertaken a further scrape of the site to reduce ground levels.</p> <p>A further survey of the site was undertaken by Angus Council Property Services on 22 March 2016. The Roads Service (Flooding) was consulted to establish if flood risk remains at the current levels. Following review by Roads, it is considered that, despite further works being undertaken, the required site levels are still to be met to mitigate flood risk. Officers have written to the developer advising that further action is required.</p>	
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 also previously 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. 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.</p> <p>The owner has agreed to enter into a processing agreement that affords a 2 month determination period for the planning application from the date the Court of Session decision is published.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
14/00186	Henderson Park Liff	12.05.2015	An area of open space was to be transferred to the Council and a commuted sum paid to allow ongoing maintenance of the land. The open space is not being maintained.	<p>The owner was written to on 14 April 2015 advising a breach of condition 5 of planning permission ref. 04/00260/FUL; requiring a scheme for the provision and maintenance of the open space. A response was required within 14 days with proposed timescale for the transfer of the land to the Council.</p> <p>A Breach of Condition Notice was served on the owner of the site on 10 June 2015 detailing the maintenance requirements for the site. The date for compliance with the Notice being 8 July 2015.</p> <p>However, a temporary measure is in place regarding maintenance and the situation is being monitored.</p> <p>The owner was written to reminding them of their requirement to comply with the Notice.</p>	The owner was written to and reminded of the requirements of the Breach of Condition Notice. The site was visited on 17 May 2016 and it was noted that the grass had been cut in compliance with the Notice.