

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 02 AUGUST 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 20 July 2016, 96 new enforcement cases have been recorded and 76 cases have been closed. There are currently 198 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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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	16.02.2006	Untidy state of land surrounding the property	An Amenity Notice was served on the previous owners of the property. The Council undertook direct action to tidy the site on two separate occasions at a total cost of £32,214.18. The property was subsequently repossessed and sold at auction. The new owners were advised the Amenity Notice remains valid; they indicated that the property would be brought up to an acceptable condition by 31 January 2016.	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. A site visit was carried out on 22 July 2016 and at that time persons were present continuing works to tidy the site.
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 refers). Ministers have agreed to extend the period for concluding the Section 75 Planning Obligation for application 13/00268/EIAM. It is understood that discussion is ongoing between the owner and NHS Tayside. The most recently fire-damaged building as well as the boiler house and the link buildings adjoining the main listed building have now 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. Building Standards continue to regularly visit the site to ensure the buildings remain boarded/blocked up.

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.	An Enforcement Notice was served on 18 April 2013 requiring the removal of the caravans. The matter was reported to the Procurator Fiscal however the Fiscal has advised that the case will no longer be progressed. Committee has instructed direct action to ensure removal of the caravans from the site and to achieve compliance with the Enforcement Notice.	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. The Service is proceeding with formal enforcement action to remove the caravans. Suppliers for undertaking the enforcement action (removal and storage) have been identified, with appointment anticipated shortly. It is anticipated the action will be undertaken soon thereafter. At present it is understood that 2 touring and 1 static caravans are present on the site.
12/00050	Joinery Workshop and Yard Douglstown By Forfar	27.08.2013	Biomass briquette production plant operating without the benefit of planning permission. (The remaining breach relates solely to site levels in the former storage area)	A number of surveys have been undertaken by Angus Council to establish if the terms of the Enforcement Notice are met. Those surveys identified that the required levels had not been met. The developer was advised to comply with the levels or demonstrate that the site was not at risk from flooding.	The developer has now submitted information in respect of flood risk. This information was considered by engineers in the Roads (Flooding) team, who are satisfied that the current levels of the site do not pose a flood risk on the site or elsewhere. Whilst the site levels do not meet those stated within the Enforcement Notice they have been reduced, and on the basis of the available information the works undertaken to date have addressed the issue of flood risk. The objective of the Enforcement Notices has therefore been achieved. It would therefore not be in the public interest to pursue further enforcement action in relation to this matter. It is proposed to close the enforcement case.

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.	A Planning Contravention Notice (PCN) was served on the owner of the site. The PCN Response Forms were returned on 30 May 2014. 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.	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. 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. 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. That application was refused under delegated powers on 18 July 2016 as the proposal did not comply with development plan policy. The applicant has 3 months' to seek review of this decision. The site owner has submitted a further application for a Certificate of Lawful Use and that application is under consideration. A further report on this matter will be presented to Committee once that application is determined.

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>	<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 again on 22 July 2016 and on both occasions it was noted that the grass had been cut in compliance with the Notice.</p> <p>It is proposed to close this case although monitoring of the situation will continue.</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 shopfront 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>Following consultation with the site operator they submitted applications for Advertisement Consent and Listed Building Consent to attempt to regularise the unauthorised developments. These applications 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.</p> <p>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>Non-compliance with the Listed Building Enforcement Notices will be reported to the Procurator Fiscal.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00014	Multi Packaging Solutions Baden Powell Rd Arbroath	02.08.2016	Planning permission, ref 15/00761/FULL, was granted for the extension to the existing building. Condition 1 required the submission of a Noise Impact Assessment (NIA), and that any mitigation measured required by the NIA be implemented prior to the commencement of the use of the factory. Use of the extension commenced prior to discharge of the condition.	A Breach of Condition Notice was served on the business on 13 July. That Notice requires the use of the factory extension and associated loading areas to cease within 28 days until such time as a NIA is submitted and all necessary noise mitigation measures identified have been put in place and are operational.	The Planning and Environmental Health Services are working with the agent in an attempt to resolve the breach of condition. However, if that is not done successfully within the 28 day period the operator will be required to cease use of the extension and associated yard.
16/00165	Land 12M 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.	Temporary Stop Notices have been served on the owner of the site preventing him from undertaking further engineering works at the site and to prevent the siting of additional caravans. Planning Contravention Notices have been served in order to allow further enforcement action to be pursued.	The site will be monitored to ensure compliance with the Temporary Stop Notices. Further enforcement action to secure restoration of the site will be pursued once the Planning Contravention Notices are returned or necessary information is obtained by alternative means.