

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 04 OCTOBER 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 21 September 2016, 156 new enforcement cases have been recorded and 121 cases have been closed. There are currently 213 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

Date: 21 September 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
02/00149	1 Broomwell Gardens Monikie	16.02.206	Untidy state of land surrounding the property	The current owners have undertaken works to improve the condition of the site and are continuing with works to repair and renovate the property. Report 339/16 was presented to Committee providing an update as to matters as they stood at that time. This report set out a number of options available to Committee with respect to the enforcement case and amenity notice. Having given consideration to the circumstances the Committee agreed that no further action should be taken and that the Notice should be withdrawn.	The case has now been closed and will be removed from the Enforcement update.
08/00007	Strathmartine Hospital	08.01.2008	Deterioration in condition of listed building.	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. 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).	Ministers have agreed to extend the period for concluding the Section 75 Planning Obligation for application 13/00268/EIAM until the end of September 2016. 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. Further consideration is being given by Scottish Ministers to extending this period. 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.	<p>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.</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. The Service is continuing plans to secure a preferred storage site.</p> <p>The action will be undertaken shortly after the storage facility is confirmed. At present it is understood that 2 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. 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.</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. The 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.</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. The applicant's agent has intimated that an appeal against the refusal is to be lodged to the Directorate for Planning and Environmental Appeals (DPEA). A further report on this matter will be presented to a future Committee to consider further action.</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>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 non-compliance with the Listed Building Enforcement Notices is being prepared for submission 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 Road 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 required the use of the factory extension and associated loading areas to cease within 28 days and until such time as a NIA was submitted and all necessary noise mitigation measures identified put in place and operational. A Noise Impact Assessment (NIA) was submitted and considered to be acceptable. The Notice has therefore been complied with and the breach of condition has been resolved, subject to the ongoing operation of the extension in accordance with the mitigation contained in the NIA.	In addition to the original application and Notice, planning application 16/00326/FULL for an extension to the building is currently pending determination. The enforcement case is being appraised in conjunction with this application.

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>Temporary Stop Notices were served on the owner of the site preventing the siting of additional caravans or the undertaking of engineering works at the site. Planning Contravention Notices were served in order to allow further enforcement action to be pursued.</p> <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. 	The site owner has submitted an appeal against the Enforcement Notice to the DPEA. The Planning Service is in the process of providing a written response to this appeal. Committee will be updated as the appeal progresses.

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	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. A Planning Contravention Notice was served on the owner / occupier.	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. An Enforcement Notice is being prepared for service on the owner / occupier.