

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 24 APRIL 2018

ENFORCEMENT UPDATE

REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES

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 is provided for each meeting of the Committee on enforcement cases where a temporary stop notice, stop notice, or enforcement notice has been served, or where the matter gives rise to potentially significant issues of wider interest. The table format of the current caseload is attached overleaf.

3. DISCUSSION

In the period from 23 February to 12 April 2018, 33 new enforcement cases were recorded and 28 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.

**KATE COWEY
SERVICE LEADER - PLANNING & COMMUNITIES**

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: KATE COWEY
EMAIL DETAILS: PLANNING@angus.gov.uk

DATE: 16 APRIL 2018

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 and 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 several extensions to the period for concluding the Section 75 Planning Obligation for application 13/00268/EIAM however no agreement has been reached.</p>	<p>The Planning Obligation has not been concluded within the periods allowed by Scottish Ministers. On 20 March 2018 the Scottish Government wrote to Angus Council and indicated that in the absence of any evidence of progress being made in relation to the registration or recording of a planning obligation, it was now their intention to bring the matter to a conclusion by issuing planning permission in principle subject to a suspensive planning condition restricting development from taking place until a planning obligation has been entered into to secure financial contributions relating affordable housing provision and education estate improvements. Angus Council were invited to liaise with the applicant's representatives to agree a draft condition by April 10 2018 otherwise a condition would be imposed by Ministers. A draft condition was agreed with the applicant's representative and was submitted to the Scottish Government on 10 April 2018. The Scottish Government had not issued planning permission at the time of writing and a verbal update will be given at the meeting should any progress be made in this respect in the interim period. Building Standards continue to regularly visit the site to ensure the buildings remain boarded/ blocked up however the site continues to be targeted by vandals.</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 lodged an appeal in respect of the Council's decision with the Directorate for Planning and Environmental Appeals (DPEA).</p> <p>The Reporter's decision on the appeal was issued on 7 February 2017. The Reporter granted a Certificate of Lawfulness for part of the application site.</p> <p>Officers have met with the site operator and consideration is now being given with regard to how best to proceed in order to regularise matters. A further update will be provided when an appropriate course of action has been agreed.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00165	Land 125 Metres 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.	An Enforcement Notice was served on the landowner on 19 August 2016. 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). 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).	The retrospective application for Planning Permission (ref: 16/00738/FULL) was refused on 06 January 2017. The applicant sought to review that decision and the Development Management Review Committee subsequently resolved to grant planning permission for the development at the meeting of 03 July 2017. A decision was issued following agreement of conditions at the following meeting of the DMRC (08 August 2017). The Enforcement Notice was withdrawn and a new Enforcement Notice was served on the landowner on 25 August 2017 for the part of the site detailed on the original Enforcement Notice that was not covered by planning application ref: 16/00738/FULL. The Notice required the removal of caravans, trailers and other items, the removal of a wooden fence and rubble and hardcore and levelling the earth bund within 3 months from the date of the Notice becoming effective, that date being 26 September 2017 unless an appeal was submitted before that date. The Enforcement Notice was appealed, and subject to adjustment by a DPEA Reporter, the Notice is effective. A site visit on 12 October 2017 confirmed that the landowner had commenced extensive excavation and exportation works to remove and level the earthen bund.

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00165 (contd)	Land 125 Metres West of North Mains Croft Logie Kirriemuir				<p>As a result of new observations a site visit was undertaken on 07 November 2017. The visit established that further unauthorised development works were being undertaken on the area of land that is subject of the Enforcement Notice and on 09 November 2017 a Planning Contravention Notice was served on the landowner in order to gather information relative to this further development of the site with a view to potential further enforcement action being taken.</p> <p>It was established at that time, that two of the conditions of the approved Planning Permission (ref: 16/00738/FULL) had not been discharged within the specified time period. On 12 December 2017 a Breach of Condition Notice was served on the landowner requiring compliance with Conditions 1 and 2 of the Decision Notice issued on 21 August 2107. The landowner was required to comply with the two conditions by 13 February 2018.</p> <p>The response received from the landowner in relation to the Planning Contravention Notice indicated that an application for Planning Permission would be submitted for the unauthorised development of the area of land subject to the Enforcement Notice.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00165 (contd)	Land 125 Metres West of North Mains Croft Logie Kirriemuir				<p>On 19 December 2017 two applications for Planning Permission Ref: 17/01017/FULL - Change of Use of Vacant Land to Form a Chalet/ Caravan Pitch (Principal Chalet and One Touring Caravan), Formation of Hardstanding, Erection of 1.8m High Fences and Amenity Block (in part retrospect); and 17/01016/FULL - Change of Use of Vacant Land for Storage of 12 Vehicles, Erection of Fencing and Formation of Hardstanding (in part retrospect), were received. Application Ref: 17/01016/FULL was subsequently withdrawn on 03 April 2018. On 13 April 2018 the Planning Service refused application Ref: 17/01017/FULL. As of 13 April 2018 the two conditions of the approved Planning Permission (ref: 16/00738/FULL) have still not been discharged. The Breach of Condition Notice required compliance by 13 February 2018. The Landowner and their Agent have been advised that unless these conditions are discharged before the end of April 2018 the matter of non-compliance with the Breach of Condition Notice will be reported to the Procurator Fiscal in pursuit of a summary prosecution for the offence of contravening a Breach of Condition Notice. The balance of the site remains in breach of the terms of the Enforcement Notice and it is now intended to take necessary steps to ensure compliance with the notice once the time period for appeal against the refusal of planning application 17/01017/FULL has expired; unless an appeal against the decision is submitted within the prescribed timescale.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
17/00008	Former Hooks Hotel 3 Bank Street Kirriemuir DD8 4BE		There is demonstrable damage to the Category C Listed building caused by water ingress, defective roof membrane, missing / broken windows and inadequate ventilation.	An Urgent Works Notice has been served on the owner notifying Angus Council's intention to instruct the following works no sooner than 13 February 2017: <ol style="list-style-type: none"> 1. Insert a temporary rainwater disposal system and the front and rear of the building and repair and test drains. 2. Secure a temporary robust membrane to the roof until the roof is re-slatted. 3. Secure all openings at the building currently open to the elements. 4. Provide ventilation throughout the building to comply with the British Standard. 	Contractors have undertaken the required works at the site and costs will be recovered from the owner. On 29 November 2017 an update was received from Scottish Government Planning and Environmental Appeals Division that an appeal against the serving of the Notice for Liability for Expenses (LBE0120-2001) for the site had been lodged on 01 November 2017. The Planning Authority response statement is being prepared and is due to be returned by 20 December 2017. Case Update 30 January 2018 - This case will be determined by Scottish Ministers on receipt of a report and recommendations by a Reporter. The appointed Reporter has now carried out an accompanied site inspection in relation to the appeal and is in the process of preparing his report. The decision has been delayed and it is now anticipated that this will be delivered to the Scottish Ministers in late April 2018. A verbal update will be given should the Reporter's decision be received in the interim.

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
17/00026	Field 45m SE of 1 Mount Pleasant Letham Mill St Vigeans Arbroath	30.05.2017	Alterations to ground levels and importation of waste material	Temporary Stop Notice served on 27 April 2017.	<p>Planning application (17/00161/FULL) was withdrawn due to flood risk issues raised by SEPA and the Local Flood Prevention Authority. The owner was written to and requested to remove the waste materials but did not comply with the request. An Enforcement Notice requiring the removal of the waste materials and the reinstatement of the land to the previous levels was served on the landowners on 29 August requiring the removal of the waste materials within three months from the date of the Notice taking effect, that date being 29 September 2017 unless an appeal was made against it beforehand.</p> <p>The owner of the site submitted an appeal against the Notice to the Directorate for Planning and Environmental Appeals (DPEA) and on 21 December 2017 the Reporter appointed by the Scottish Government dismissed the appeal. The developer was given 3 months from the date of the Reporter's decision to comply with the Notice. Planning application 17/00860/FULL for the levelling of land was subsequently submitted and is currently subject of an application for review by the DMRC. The review is sought in respect of the non-determination of the application within the statutory timescale (deemed refusal). The review request was received on 12 February 2018. A meeting of the DMRC took place on 03 April 2018 and further written submissions have been requested for consideration at a future meeting. A further update will be given once a decision on the request for review has been reached by the DMRC.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00276	Muirloch	08.08.2017	Unauthorised operation of a biomass production facility at the site of a storage shed that is authorised for the storage of biomass.	A retrospective planning application (16/00987/FULL) has been submitted. A processing agreement was implemented in order to allow for the submission of various technical assessments including noise and air quality assessments. Following complaints that the site was still being operated in the interim a Temporary Stop Notice was served on 15 June 2017.	Formal action has not been taken beyond the Temporary Stop Notice served on 15 June 2017 pending the outcome of planning application ref: 16/00987/FULL. The outstanding objection to the planning application by National Grid was removed on 23 February 2018 and the planning application is the subject of a separate report presented to this meeting of the Development Standards Committee for determination.
13/00195	Land at Gagie Filters Kellas	03.10.2017	Unauthorised works have been undertaken to the filter beds which are listed and the site is being used for the storage of various items without planning permission.	A Listed Building Enforcement Notice and an Enforcement Notice were served on the landowner on 30 January 2017 requiring the reinstatement of the filter beds and the removal of the various items from the site. An appeal against each Notice was submitted to the DPEA and on 19 July 2017 the Reporter dismissed each appeal and upheld the terms of the Notices with the date for compliance being three months from that date 19 September 2017. The appeal decisions were the subject of previous reports to Committee, ref 254/17 and 255/17.	On 21 September 2017 a site visit was carried out and it was noted that none of the actions required by the Notices had been carried out. Report 367/17 was submitted to the meeting of 21 November 2017 outlining potential courses of action available. Committee agreed the report and authorised further action as necessary. The owner advised that the required actions would be undertaken and a further site visit was undertaken on 12 February 2018 and a verbal update was provided to Committee on 13 February 2018 advising that the unauthorised structures attached to the listed filter bed had been removed, progress had been made with the removal of vehicles and detritus and other materials remained at the site. The owner indicated that the storage containers were to be removed imminently as were the other materials which were being sold and those not sold would be disposed of. A further site visit was undertaken on 29 March 2018. No further progress in relation to the clearance beyond that observed on 12 February 2018 was evident at that time. In accordance with the available further actions agreed by Committee at the meeting of 21 November 2017, it is now intended to serve a fixed penalty notice on the site owner. Direct Action may be pursued if the requirements of the notice remain unmet.

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
16/00282	Land between Store and Beattie Brae Brechin	21.11.2017	Formation of a Storage Yard with a vehicular access point at the land, sited a Portable Building onto the land, and deposited large amounts of soil, rubble, building and construction waste materials, landfill and other detritus onto the land without the benefit of planning permission.	<p>An Enforcement Notice was served on the developer. It becomes effective on 20 November 2017 and requires the developer to undertake the following steps:-</p> <ol style="list-style-type: none"> 1. Cease using the land as a storage yard and close off the vehicular access point within three (3) months of the date of this Notice becoming effective. 2. Remove the Portable Building from the land within three (3) months of the date of this Notice becoming effective. 3. Remove the large amounts of soil, rubble, building and construction waste materials, landfill and other detritus deposited onto the land, reinstate the land to a level condition, and seed in grass, within three (3) months of the date of this Notice becoming effective. 	<p>No appeal has been lodged and the Notice became effective on 20 November 2017. Monitoring site visits have confirmed that the developer has complied with step 1. However, steps 2 and 3 require to be completed. The time period for compliance with the Notice concluded on 20 February 2018. A site visit undertaken on 11 April 2018 confirmed that the developer had almost fully complied with step 3. However, the Portable Building remained on the site and the vehicular access point had not been completely closed off. A letter was sent to the developer requesting that all steps be completed within a specified period of time. A site visit to confirm whether full compliance has been achieved will be undertaken prior to the meeting and a verbal update will be given.</p>

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
17/00035	Thornbank Cottage 30 Redford Road Padanaram	21.11.2017	Observation that there are scrap motor vehicles, trailers, vehicle parts, tyres, timber, metal, bikes, machinery, building materials, rubble, electronic equipment, and other items of scrap or waste material, and overgrown areas of hedging grass and weeds, on the land and it is adversely affecting the residential amenity of the area.	An Amenity Notice was served on the occupier on 07.11.2017. The Notice becomes effective on 10 December 2017 and requires the occupier to undertake the following steps:- 1. Remove from the land all scrap motor vehicles, trailers, vehicle parts, tyres, timber, metal, bikes, machinery, building materials, rubble, electronic equipment, and other items of scrap or waste material. 2. Cut back the overgrown areas of hedging, grass and weeds. Apply weed killer to suppress areas of overgrown weeds. 3. Restore the land to and thereafter maintain the land in a reasonably neat and tidy condition, such that it does not adversely affect the amenity of any adjacent residential properties or public areas.	No appeal has been lodged and the Notice is effective as of 10 December 2017. The time period for compliance with the Notice concluded on 10 March 2018. Some positive progress has been made in the form of the removal of several of the motor vehicles and the clearance of some materials from the site. The occupier requested a four week extension in order to allow all clearance works to be completed. The Planning Service continues to liaise with the occupier to ensure that compliance will be achieved within an acceptable timescale. A site visit will be undertaken prior to the meeting and a verbal update will be given.

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
17/00027	Two areas of Land at Keithock, Brechin, DD9 7QD	21.11.2017	Observation received of a material Change of Use of two areas of agricultural land for the large scale rearing of Game Birds - Pheasants, and the construction of associated pens/buildings. The Observers were enquiring if this change of use of the land requires planning permission.	An Enforcement Notice was served on the land owner and the occupier of the areas of land on 11 December 2017. The Notice becomes effective on 12 January 2018 and requires the land owner / occupier to undertake the following steps:- 1. Cease the use of the two areas of land for the rearing of Game Birds for Sporting Purposes, and for the siting and storage of associated buildings, caravans, structures, and pens, on the date that this notice takes effect. 2. Thereafter clear the two areas of land of all associated buildings, caravans, structures, pens, other related equipment and materials, utilised for the rearing of Game Birds for Sporting Purposes, and return the land to agricultural use by 31 March 2018.	An appeal against the terms of the Enforcement Notice was lodged but that has been withdrawn. The landowner has subsequently confirmed that all bird rearing operations at the site will cease and that the terms of the Enforcement Notice will be met by 31 March 2018. A site visit undertaken on 29 March 2018 confirmed that extensive clearance works were being undertaken on both areas of land to comply with the required steps of the Enforcement Notice however clearance operations had been delayed as a result of poor weather conditions in March A site visit to confirm full compliance will be undertaken prior to the meeting and a verbal update will be given.
18/00016	Field 440M East of Cross Roads Cottage Balnuith Tealing	13.02.2018	Observation received regarding the alteration to ground levels and the laying of crushed aggregates at the site	A Temporary Stop Notice was posted at the site on 29 January 2018 requiring the cessation of the importation of crushed aggregates and alteration of ground levels within the site. The Notice remains in force until the 28 February 2018. The owner has been advised of the Notice and a meeting is proposed to discuss the works undertaken.	At the time of writing the Planning Service is in the process of preparing an Enforcement Notice in respect of the breach. A further update will be given at the meeting.

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
18/00025	Field North of 10 Hillhead Road Monikie	06.03.2018	Observation received regarding the siting of plant and machinery at the site.	The site was the subject of a previous enforcement case ref 16/00286/UNDV where a large quantity of rubble had been spread over the site and the site was being used as a storage area for plant and machinery. An Enforcement Notice was served requiring the removal of the rubble, restoration of the land and removal of the plant and machinery. That case was closed when the notice was substantively complied with.	Plant and machinery had been brought back on to the land and was being stored on an area of hardstanding. A further Enforcement Notice was served on 16 February 2018 requiring the removal of the hardstanding and plant and machinery within 1 month of the Notice becoming effective. The Notice became effective on 19 March 2018. A further site visit was undertaken on 10 April 2018 and it was noted that the plant and machinery had been removed from the site but the hardstanding remained. A further site visit will be undertaken prior to the meeting and a verbal update provided.
17/00099	Plot Five and The Pond Over Ascreavie Kingoldrum	24.04.2018	Observation received regarding the alterations to ground levels and the area of land at the Pond being infilled, and that the house at Plot Five was not being built in accordance with the approved planning permission reference: 08/01539/FUL.	Two Enforcement Notices were served on the landowners and developers on 20 March 2018. The Notices become effective on 21 April 2018 and require the land owners and developers to undertake the following steps:- Plot Five: 1. Remove the 1.8 – 2.0 metre high wooden close boarded fence that has been erected to the west of the house approved under the terms of planning permission reference 08/01539/FUL, within one (1) month of the date of this Notice becoming effective.	New Enforcement Case as of 20 March 2018. Enforcement Notice Appeals against both Notices have been submitted to the Scottish Government Planning and Environmental Appeals Division (DPEA) by one of the interested parties. The appeals were lodged with the DPEA on 11 April 2018.

Reference Number	Address	Date of Development Standards Committee	Details of Breach/ Complaint	Summary of Action	Future Action/Update
17/00099 (contd)	Plot Five and The Pond Over Ascreavie Kingoldrum			<p>2. Provide the landscaping and form the curtilage of the house approved under the terms of planning permission reference 08/01539/FUL in accordance with the approved site plan/location plan by A B Roger & Young dated Dec 2008, within six (6) months of the date of this Notice becoming effective.</p> <p>The Pond:</p> <p>3. Remove the soil, rubble, building and construction materials, landfill and other detritus deposited onto the area of land at The Pond, and reinstate the area of land to its former condition, within one (1) month of the date of this Notice becoming effective.</p>	