

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 11 SEPTEMBER 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 27 July 2018 to 03 September 2018, 7 new enforcement cases were recorded and 14 cases have been closed. There are currently 203 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.

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DATE: 3 SEPTEMBER 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>Several fire damaged buildings at the site have been demolished for safety reasons. The ground floor openings to the listed building, exposed by the demolition of 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). As a result of a failure by the developer to enter into a Planning Obligation within timescales prescribed by the Scottish Government, Ministers have now issued planning permission in principle subject to conditions including a condition requiring a Planning Obligation to be entered into prior to the commencement of development. Notice was received that Ministers had issued planning permission on 25 April 2018.</p> | <p>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> <p>It is intended to leave the case open at this time until progress is made in respect of the redevelopment of the site.</p> |

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|------------------|---|---|---|---|---|
| 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>The site operator has indicated that he may be in a position to demonstrate that the activities at the site are lawful on the basis it has operated in a particular manner for a continuous period of time. Officers have provided information in relation to the planning history of the site and have suggested that an application for a certificate of lawfulness of existing use should be submitted for those areas of the site where it is considered that lawfulness can be demonstrated. The operator is currently seeking legal advice in advance of making any application/s.</p> <p>A further update will be provided when an appropriate course of action has been agreed.</p> |

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|------------------|--|---|--|---|--|
| 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 Development Management Review Committee resolved to grant planning permission (ref: 16/00738/FULL) for the development at its meeting of 03 July 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. 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. 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. Condition 2 was discharged on 21 June 2018 however Condition 1 remains undischarged at this time. |

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| 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. The balance of the site remains in breach of the terms of the Enforcement Notice however an appeal has been submitted to the Development Management Review Committee against the refusal of planning application ref: 17/01017/FULL. Further action will not be taken in relation to that matter until the review is determined. The Planning Service is in discussion with Scottish Water regarding the issue of foul drainage covered by Condition 1 of planning permission ref: 16/00738/FULL that remains undischarged contrary to the terms of the Breach of Condition Notice. The applicant's agent provided an update on 16 August 2018 and has confirmed that an application for connection to Scottish Water's drainage infrastructure has been submitted by a consulting drainage engineer.</p> |

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| 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: 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. An appeal against the serving of the Notice for Liability for Expenses (LBE0120-2001) for the site was lodged on 01 November 2017. A report and recommendations from a DPEA Reporter were submitted to Scottish Ministers for consideration. On 1 August 2018 the Scottish Ministers agreed with the Reporters conclusions and recommendation that the full amount claimed by Angus Council is recoverable. |

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| 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>An Enforcement Notice requiring the removal of the waste materials and the reinstatement of the land to the previous levels. An appeal against that Notice was dismissed and 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 refused and a subsequent review was dismissed by the DMRC.</p> <p>The owner has been reminded of the requirement to comply with the terms of the Enforcement Notice.</p> <p>At this time it is unclear whether the removal of materials has taken place in accordance with the requirements of the Notice.</p> <p>A site survey was undertaken and the current site levels have been established. The survey indicates that site levels remain approximately 0.5m higher than the pre-development site level indicated in information submitted by the applicant in support of planning application ref: 17/00860/FULL.</p> <p>The site owner has been informed that further work is required in order to bring the site into compliance with the Enforcement Notice.</p> |

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| 16/00276 | Storage Shed Muirloch Liff | 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. Subsequent complaint received on 23 July 2018 alleging chipping operations have taken place outside of the approved hours. | Planning application ref: 16/00987/FULL was approved by the Development Standards Committee on 24 April 2018 subject to conditions. | The applicant has submitted information to discharge conditions relating to the management of noise, artificial light and vehicles crossing the national grid pipeline. The applicant has commissioned additional noise testing to inform noise mitigation. The information regarding the pipeline crossing has been sent to National Grid and comment is awaited. The temporary fencing has been moved in order to improve public access over the track and details of the proposed permanent fencing has been provided. The scheme to mitigate artificial light is acceptable and is to be implemented. |
| 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. The owner did not undertake the required works within the specified timescales. A fixed penalty notice was issued but no payment was made. | An update was provided to Committee on 07 August 2018 by means of a separate report (Report No 226/18) and Committee approved the use of direct action as necessary in order to bring the site into compliance with the terms of the Enforcement Notice. The owner has now undertaken works to level the sand bund over Filter Bed 3 and has further stated his intention to submit a schedule of works detailing actions that he will undertake in order to bring the site into compliance with outstanding actions required by the Enforcement Notice. Direct action will not be pursued whilst there is evidence of progress. |

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| 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. | An attempt was made to serve an Enforcement Notice by sending it to the site owner's last known address but the Notice was returned as the owner no longer resides there. Planning application ref. 18/00626/FULL for Change of Use of Land to Form Two Pitch Caravan Park (One Principal Chalet, Two Tourers and an Amenity Block on Each Pitch) to include Formation of Access Road, Hardstanding and Earth Bunds has been submitted and is currently being considered. |
| 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 Fixed Penalty Notice was served on the owner however no response was received in respect of that Notice. The time period for payment of the fixed penalty has lapsed. The Planning Service has met with the owner who has provided an undertaking that he will remove the hardstanding from the site and reinstate the land to a greenfield condition in order to bring the site into compliance with the enforcement notice. A further update will be provided when the work has been undertaken. |

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| 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. | <p>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:-</p> <p>Plot Five:</p> <ol style="list-style-type: none"> 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. 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>The Pond:</p> <ol style="list-style-type: none"> 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>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. Statements of response have been submitted by the Planning Service and the appeals have been allocated to a Scottish Government Appeal Reporter. A Reporter's decision was due on both appeals on 29 August 2018 however no decision had been issued at the time of writing. Committee will be updated once a decision has been issued by the DPEA.</p> |

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|------------------|---|---|--|--|--|
| 18/00072 | Former NOSWA Sewage Pumping Station Yard, Craig O'Loch Road, Forfar | 07.08.2018 | Importation of soil, rubble, hard core, building materials and other detritus etc., compaction of these materials and altering of ground levels at a vacant yard without the benefit of planning permission. | A Temporary Stop Notice (TSN) was served on 15 May 2018 requiring that the importation of materials into the site cease with immediate effect. | The importation of materials and the alteration of ground levels continued at the site in breach of the TSN. Investigations are ongoing to establish the identity of the site owner and any other party to the breach. Thereafter it is intended to take formal enforcement action against relevant parties. |