

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 10 DECEMBER 2019

ENFORCEMENT APPEAL DECISION: UNITS 4A - 9 CRAIG O'LOCH ROAD, FORFAR

REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES

Abstract:

This report presents the findings of the Reporter appointed by the Scottish Ministers to determine an appeal by Taylor Shepherd against the decision of Angus Council to issue an enforcement notice requiring the cessation of use of the land and buildings for uses within Use Class 5, including all vehicle repair and maintenance activity anywhere on the site. at Units 4A – 9 Craig O'Loch Road, Forfar. The Reporter allowed the appeal and varied the terms of the enforcement notice to allow a period of six months for cessation of the use.

1. RECOMMENDATION

It is recommended that the Committee notes the outcome of the above appeal.

2. INTRODUCTION

- 2.1 At its meeting on 6 August 2019 Committee refused planning permission in principle for the use of lock ups for Class 5 (General industrial) and Class 6 (Storage and distribution) purposes at Units 4A – 9 Craig O'Loch Road, Forfar. (Report [248/19](#) refers). Following that decision an enforcement notice was served by the council that required the cessation of use of the land and buildings for uses within Use Class 5, including all vehicle repair and maintenance activity anywhere on the site. The notice required the unauthorised use to cease within two months of the notice taking effect.
- 2.2 The land owner, Taylor Shepherd, appealed against the issue of the enforcement notice and the Reporter's conclusions and decision are presented below.

3. REPORTER'S DECISION

Decision

- 3.1 I allow the appeal and vary the terms of the notice by deleting the words in paragraph 5 of the notice "two months" and replacing them with the words "six months".

Subject to any application to the Court of Session, the enforcement notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Town and Country Planning (Scotland) Act 1997 (the Act).

Reasoning

- 3.2 The appeal against the enforcement notice was made on the following grounds as provided for by section 130(1) of the Act:
- (g) that any period specified in the notice with section 128(9) falls short of what should reasonably be allowed.
- 3.3 The enforcement notice relates to an application for planning permission in retrospect for the change of use of lock ups from Class 4 (Business use) to Class 5 (General industrial) and Class 6 (Storage or distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended). That application was refused by Angus Council on 13 August 2019. I have considered an appeal against the refusal of that application in a separate decision (PPA-120-2052).

- 3.4 Under the terms of the enforcement notice, the appellant is required to cease the use of the site for Class 5 uses, including all vehicle repair and maintenance activity anywhere on the site. The Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (as amended) would permit a change of use from Class 4 to Class 6 (up to 235 square metres of floor space only) without the need for planning permission.
- 3.5 There is no dispute that the alleged breach of planning control identified in the enforcement notice has taken place. The period for compliance with the enforcement notice is 2 months from the date of the decision. The appellant has submitted evidence that the tenants' lease agreements include a 6 month notice period to vacate. I am aware that the tenants are primarily private individuals, carrying out hobby activities. I note the concerns of the neighbouring residents and the potential for ongoing adverse impacts on the amenity of their properties. I also note the council's view that the time period is sufficient to remedy the breach of planning control.
- 3.6 Taking these issues into account, and the appellant's attempts (albeit unsuccessful) to regularise the uses, I consider that the 2 month period to vacate is too short. A period of 6 months from the date of this decision would allow for compliance with formal notice periods, and give tenants a more reasonable and realistic period to find suitable alternative accommodation, agree new leases and move vehicles and equipment off the site.
- 3.7 I have taken into account all other matters raised but there are none that would lead me to alter my conclusion that the notice should be varied to extend the period for compliance from 2 months to 6 months.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

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 a material extent in preparing the above report.

REPORT AUTHOR: KATE COWEY

EMAIL DETAILS: PLANNING@angus.gov.uk

DATE: 29 NOVEMBER 2019