

4 ENFORCEMENT NOTICE APPEAL DECISION - 29 ADELAIDE PLACE, DUNDEE - ALLEGED UNAUTHORISED ERECTION OF DECKING (AN216-2005)

On 8th November 2004 the Council served an Enforcement Notice in respect of alleged unauthorised decking at the above address.

The decking measures 45 square metres and had been erected on two levels in the front garden of the semi detached property. The entire decked area is surrounded by a 950 mm high timber balustrade. The Notice was served in response to a complaint from a neighbour that severe overlooking of their property occurred.

The Enforcement Notice required the removal of the alleged unauthorised decking and of the handrail within 60 days of the Notice taking effect.

The Notice was appealed by the applicant under the provisions of Section 130 and Schedule 4 of the Town & Country Planning (Scotland) Act 1997. The appeal was determined by written representations and the decision was received by the Council on 21st April 2005. A copy of the decision letter can be found in the Members' Lounges.

The appellants argued that the Council had taken no action since 2002; they had been advised by the contractor that planning permission would not be required; that the permitted development order applied in this case; that other decking exists in the surrounding area and that the impact of the development on residential amenity is negligible and that the impact could be softened by planting; and that the complete removal of the decking is excessive; and that the time period for compliance is too short.

In summary the Reporter concluded that:

- (a) The proposal constituted a breach of control and that under the provisions of the Permitted Development Order planning permission was required.
- (b) The proposal contravened Policies H1 and H4 of the adopted Dundee Local Plan because it has a significant visual impact when viewed from the street and compromises the privacy of neighbours on both sides.
- (c) There is no scope to alter the design of the development by planning condition to overcome the effect on amenity of neighbours. (Nevertheless there may be scope for the appellants and the Council to reach some agreement on an alternative design for the paved areas to reach a compromise between amenity and safety. However, this cannot be resolved in the context of this appeal).
- (d) The compliance period of 60 days is reasonable.

Accordingly, the appeal was DISMISSED and the Enforcement Notice UPHeld within the 60 days for compliance running from the date of the decision notice (21st April 2005).