

REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 25 APRIL 2005

REPORT ON: PLANNING ENFORCEMENT AND TREE PROTECTION PERFORMANCE 2003/2004 AND 2004/2005

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 228-2005

1 PURPOSE OF REPORT

- 1.1 To inform Members of the nature and extent of planning enforcement activity for the year April 2003-March 2005 together with information for the same period on tree preservation work.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee notes the contents of this Report and reaffirms its approach to planning enforcement and tree preservation.

3 FINANCIAL IMPLICATIONS

- 3.1 Expenditure arising from any direct enforcement action taken by the Department will be met from within the Planning and Transportation Department's Revenue Budgets.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The Council's enforcement and tree preservation powers are available to support decisions taken by the Council to promote various Key Dundee 21 Themes but in particular:

"Places, spaces and objects combine meaning and beauty with utility.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 Robust yet fair enforcement and tree protection policies help to ensure that all Dundee's citizens benefit from an enhanced environment and are protected from the adverse effects of unauthorised developments and unauthorised felling or lopping of protected trees.

6 BACKGROUND

Core Enforcement Activity

- 6.1 Planning enforcement is a key part of the relationship between development planning and development control which together make up the statutory planning process.
- 6.2 The powers available to local planning authorities in respect of the enforcement of planning control were greatly enhanced through the Planning and Compensation Act 1991 and subsequently incorporated into Part VI (Sections 123-158) of the Town and Country Planning (Scotland) Act 1997 supported later by Circular 4/1999 and Planning Advice Note 54, 1999.

- 6.3 Attention is drawn to the Minutes of the Development Quality Committees of 30 April 2001 (Report ref 239-2001), 29 April 2002 (Report ref 271-2001) and 27 October 2003 (Report AN480-2003) wherein reference is made to enforcement and tree protection activity in previous years.
- 6.4 The Table below indicates the levels of core enforcement activity undertaken by the Council over the past 3 years.

Table 1 - Enforcement Activity

<i>Appeals</i>	<i>2002/2003</i>	<i>2003/2004</i>	<i>2004/2005</i>
Enforcement Cases Investigated	340	253	369
Planning Contravention Notices Served	48	42	14
Breach of Condition Notices Served	0	0	0
Enforcement Notices Served	17	4	5
Amenity (Wasteland) Notices Served	9	15	6
Direct Action Authorisations by Committee	3	2	3
Advertisement Enforcement Notices	0	4	3
Listed Building Enforcement Notices	0	3	3
Enforcement and Amenity Notice Appeals	5(2)	0	4(4)
Enforcement and Amenity Notice Appeals Outstanding	-	-	2
Tree Replacement Notice Appeals	0	0	2(2)

() = Dismissed

- 6.5 From the Table, Members will note that:
- a during 2004/2005 there has been a considerable increase in the number of potential breaches of planning control voluntarily resolved by negotiation compared to the previous year;
 - b significantly fewer Planning Contravention Notices (formal requests for information relating to potential breaches) were served in 2004/2005. This is indicative of the success of the informal resolution of complaints without recourse to formal enforcement action;
 - c no Breach of Condition Notices were served. The enforcement of conditions is arguably the most challenging aspect of enforcement work. Monitoring all conditions is not practicable and therefore a selective approach is adopted. The success of conditions monitoring and enforcement is assisted when conditions are appropriately applied and worded in line with Circular advice. Measures are in place to further intensify conditions monitoring;
 - d as reported to Committee separately the Council has experienced recent success in the face of increased appeal activity.
- 6.6 During 2004/2005 the Assistant Enforcement Officer was promoted to the post of Enforcement Officer and an Enforcement Officer dedicated to each of our two area planning control teams. This has improved the service to customers and communication arrangements within and between teams.

Tree Protection

- 6.7 The Council has powers under Sections 160 to 164 of The Town and Country Planning (Scotland) Act 1997 supported by The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas (Scotland) Regulations 1975 to protect trees through the designation of Tree Preservation Orders and the control of the felling and lopping of trees in conservation areas.
- 6.8 These duties in relation to trees are discharged via a teamwork approach involving the Enforcement Officers, the Council's Forestry Officer and the Legal Division. In the past year 137 requests from the public for works to trees in Conservation Areas and Tree Preservation Orders have been administered. This compares with 96 2003/2004 and 102 in 2002/2003.
- 6.9 During 2004/2005 15 Tree Preservation Orders were confirmed with a further 5 currently being progressed.

7 CONSULTATIONS

- 7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

Mike Galloway
Director of Planning & Transportation

Ian Mudie
Head of Planning

IGSM/IAR/DB

1 April 2005

Dundee City Council
Tayside House
Dundee