

**REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 24 APRIL 2006**

**REPORT ON: PLANNING ENFORCEMENT AND TREE PROTECTION PERFORMANCE 2005/2006**

**REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION**

**REPORT NO: 260-2006**

## **1 PURPOSE OF REPORT**

- 1.1 To inform Members of the nature and extent of planning enforcement activity for the year 2005/2006 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 Committee of 25 April 2005 (Report Ref 228-2005), 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 4 years.

**Table 1 - Enforcement Activity**

<b>Appeals</b>	<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>	<b>2005/2006</b>
Enforcement Cases Recorded*	340	253	369	380
Planning Contravention Notices Served	48	42	14	30
Breach of Condition Notices Served	0	0	0	0
Enforcement Notices Served	17	4	5	24
Stop Notices Served	0	0	0	4
Amenity (Wasteland) Notices Served	9	15	6	0
Direct Action Authorisations by Committee	3	2	3	0
Advertisement Enforcement Notices	0	4	3	0
Listed Building Enforcement Notices	0	3	3	0
Enforcement and Amenity Notice Appeals	5(2)	0	4(4)	3(3)
Enforcement and Amenity Notice Appeals Outstanding	-	-	2	4
Tree Replacement Notice Public Inquiry	0	0	0(0)	1(1)

\*Number of enforcement enquiries received and investigated.

( ) = Dismissed

- 6.5 From the Table, Members will note that:
- a The level of enforcement complaints/investigations continues to increase leading to a proportionately high number of Planning Contravention Notices (the first stage of formal enforcement action) served.
  - b The consistent success rate being achieved in enforcement appeals.
  - c Where it is confident of success the Council will not hesitate to serve Stop Notices.

### **Tree Protection**

- 6.6 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.

- 6.7 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 132 requests from the public were made for works to trees in Conservation Areas and in respect of Tree Preservation Orders have been administered. This compares with 96 in 2003/2004 and 137 in 2004/2005.
- 6.8 During 2005/2006, 7 Tree Preservation Orders were confirmed with a further 12 cases currently being progressed.
- 6.9 During 2005/2006 a public inquiry was held in respect of a Tree Replacement Notice Appeal. Scottish Ministers discussed the appeal. However, that decision is now subject to challenge in the Court of Session by the appellant.

## **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.

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