

REPORT TO: DEVELOPMENT QUALITY COMMITTEE – 29 APRIL 2002

REPORT ON: PLANNING ENFORCEMENT ANNUAL REPORT

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 271-2001

1 PURPOSE OF REPORT

- 1.1 To inform Members of the nature and extent of planning enforcement activity for the year April 2001-March 2002 and to make recommendations concerning to the Council's Enforcement Policy Statement approved by the Planning & Transportation Special Sub Committee on 13 November 2000.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Committee notes the contents of this report and agrees to the addition to the Council's Enforcement Policy Statement as indicated in this report as indicated in the report.

3 FINANCIAL IMPLICATIONS

- 3.1 Expenditure arising from any direct enforcement action taken by the Department will be met from within the Building Quality Division 2002/03 Revenue Budget.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The Council's enforcement 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 policies help to ensure that all Dundee's citizens benefit from an enhanced environment and are protected from the adverse effects of unauthorised developments.

6 BACKGROUND

Core Enforcement Activity

- 6.1 Planning enforcement is a key part of the relationship of development plans, development control and enforcement 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 123-128) of the Town and Country Planning (Scotland) Act 1997 supported later by Circular 4/1999 and Planning Advice Note 54, 1999.
- 6.3 The table below indicates the levels of core enforcement activity undertaken by the Council over the past 3 years.

Table 1 – Enforcement Activity

	1999/2000	2000/2001	2001/2002
Enforcement Cases Investigated	173	252	168
Planning Contravention Notices Served	23	35	29
Breach of Condition Notices Served	0	2	1
Enforcement Notices Served	4	11	10
Wasteland Notices Served	5	7	6
Direct Action Cases	0	1	2

Source: Planning and Transportation Departmental Records and Scottish Executive Returns

- 6.4 During the year 2001-2002, 168 of potential breaches of planning control were voluntarily resolved through negotiation with the parties concerned. This takes up a significant amount of Officer workload and results in the activity or structure halted or removed. Alternatively an application is submitted. When this approach fails a Notice is served to remedy the breach of planning control.
- 6.5 The ultimate course of action available to the Council is to take Direct Action. This involves the Council entering onto land and carrying out works specified in a Notice which has previously been served and not complied with. During the past year this Department has taken Direct Action on two occasions. Both events related to sites which had been served with Wasteland/Amenity Notices. The costs were incurred by the Council and steps are being taken to recover these costs from the landowners.
- 6.6 In relation to the monitoring of conditions a total of 99 planning permissions granted, subject to conditions, were monitored. In all but one there was substantial compliance with the conditions. In the one that did not comply a Breach of Conditions Notice was served and the condition was subsequently complied with.

Tree Protection

- 6.7 The Council's duties in relation to trees are discharged via a teamwork approach led by the Enforcement team in consultation with the Council's Forestry Officer and Legal Division. In the past year, 119 requests from the public for works to trees in Conservation Areas and Tree Preservation Orders have been administered.
- 6.8 Last year it was proposed to promote a further 15 Tree Preservation Orders. During the past year 8 Tree Preservation Orders have been promoted with a further 4 substantially progressed.
- 6.9 For the year 2002-2003 it is proposed to promote the existing 4 progressed TPO's and promote a further 6.

Houses in Multiple Occupation

- 6.10 The mandatory Licensing Scheme presently operated by the Council has generated a significant amount of enquiries and inspections. The numbers of enquiries by property agents, solicitors and neighbours has risen to 84 from 63 the previous year. The number of inspections has dropped from 23 to 19. This is due mainly to the fact that the present licensing level of 5 unrelated persons does in itself not require planning permission for change of use.

Policy Procedure in Enforcement Action

- 6.11 On 13 November 2000 members approved a Planning Enforcement Policy set out as part of a report to the Planning and Transportation Special Sub Committee. The policy set out the various responsibilities and Guiding Principles of Enforcement.
- 6.12 In the light of experience it is recommended that the Council's Planning Enforcement policies be added to as follows:
- In circumstances where a Notice has been served and not complied with, all cases will first be reported to the Procurator Fiscal Services for failure to comply with the relevant Notice. Only after consideration by the Procurator Fiscal Services will Committee Reports be presented to members seeking authorisation for Direct Action powers.*
- 6.13 This recommendation is made to ensure that a sequential approach is taken to enforcement activity to secure best value in the deployment of the direct action budget.

7 CONSULTATIONS

- 7.1 The Chief Executive, Director of Finance, Director of Support Services, Director of Corporate Planning, and , have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

- 8.1 None

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29 March 2001

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