

**REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 28 AUGUST 2006**

**REPORT ON: FARINGTON HOUSE, 1 FARINGTON STREET, DUNDEE**

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

**REPORT NO: 454-2006**

**1 PURPOSE OF REPORT**

1.1 To advise Committee of the Planning Enforcement issues regarding Farington House, 1 Farington Street, Dundee.

**2 RECOMMENDATION**

2.1 It is recommended that the Committee notes the contents of this Report.

**3 FINANCIAL IMPLICATIONS**

3.1 There are no financial implications.

**4 LOCAL AGENDA 21 IMPLICATIONS**

4.1 There are no Local Agenda 21 implications.

**5 EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 There are no Equal Opportunities implications.

**6 BACKGROUND**

6.1 Reference is made to Article 1(o) of the minutes of the Development Quality Committee held on 24 April 2006 wherein the Council refused planning permission for the change of use from housing for the elderly to 16 bedsits, 6 one bed units and 2 two bed units for Farington House Properties Ltd at 1 Farington House, Farington Street, Dundee.

6.2 Members remitted to the Director of Planning and Transportation to submit a further report on the possible unauthorised works in respect of the application and the various options for enforcement action, if appropriate. This report fulfils this remit.

6.3 In preparing this report and recommendation particular attention has been paid to the planning history of the site and the implications of recommending that enforcement action be taken given the planning history, the actual use to which the property has been put over time and in terms of its present use and occupancy.

6.4 At the request of the Members a full and comprehensive investigation into the property history has been carried out. There is evidence that shows the property has not been used exclusively as Sheltered Housing since 1998 and local knowledge further indicates that the premises were primarily used by elderly people who did not require any degree of care and who had for example sold the family home to move to a smaller property. In relation to this use and with reference to applications D11465 and D18982 (see below) there has been a breach of planning condition. However this goes beyond the 10 year limit for taking any enforcement action.

6.5 The property was acquired by the Trustees of Dundee Old People's Welfare Committee in 1968. Dundee Old People's Welfare Committee eventually became Dundee Age Concern. Dundee Age Concerns sold the property in January 1994 to private landlords. The following planning decisions are relevant:

- i D11465 - Change of Use from House to 9 flatlets with Warden Use and Communal room - approved 1 October 1968. The following condition was attached "Restrict use to Dundee Old Peoples Welfare Committee"
- ii D17196 - Erection of Sheltered Housing development consisting of 3 double and 13 single person flats - approved 1 July 1974. Two conditions attached related to materials used in the development. Members are asked to note that this application is not for an extension to the original building therefore the condition restricting the use to the Dundee Old People's Welfare Committee does not apply.
- iii D18982 - Retrospective consent to revoke condition restricting use to "Dundee Old Peoples Welfare Committee" - approved 21 December 1993. This condition was replaced with the following, "That the premises shall be used for sheltered accommodation for the elderly and for no other purposes including any other use contained within Class 13 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1989 as amended or re-enacted." Members are requested to note this condition is only attached to the old house.

6.6 With reference to the Report submitted to the Development Quality Committee regarding the refusal of the planning application for a Change of Use from housing for the elderly to 16 bedsits, 6 one bed units and 2 two bed units, it was stated in the Report that the property was previously a Care Home and that unauthorised works have been carried out to the premises. Members are requested to note that no evidence was found to support that the property was a Care Home. The "unauthorised works" were actually repair and maintenance.

6.7 Members are requested to note that this property is not a House of Multiple Occupancy as all the flatlets contained within this property are individual units.

## **7 CONCLUSION**

7.1 On the evidence currently available, on the balance of probabilities, it is unlikely that the Council would be able to establish a clear breach of planning control or establish in any enforcement procedures that there was any breach of planning control which was not now immune from action.

## **8 CONSULTATIONS**

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

## **9 BACKGROUND PAPERS**

9.1 None.

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Director of Planning & Transportation

Ian Mudie  
Head of Planning

IGSM/LC/MS

17 August 2006

Dundee City Council  
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