

REPORT TO: DEVELOPMENT QUALITY COMMITTEE – 27 OCTOBER 2003

REPORT ON: REQUEST FOR DIRECT ACTION AT 45 TRAQUAIR GARDENS, DUNDEE

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 682-2003

1 PURPOSE OF REPORT

1.1 This report seeks authority to take appropriate action to seek compliance with an Enforcement Notice at 45 Traquair Gardens, Dundee.

2 RECOMMENDATIONS

2.1 It is recommended that Committee authorise action under the terms of Section 135 of the Town & Country Planning (Scotland) Act 1997, to allow the Council to enter onto land and take the necessary steps to comply with the terms of Enforcement Notice. Thereafter any expenses reasonably incurred by the Council taking such action will be recovered from the landowner.

3 FINANCIAL IMPLICATIONS

3.1 It is not presently possible to accurately estimate the costs involved, but these are considered to be relatively minor. The costs can initially be met from the Planning & Transportation revenue Budget 2003/2004 and thereafter recovered from the respective landowner.

4 LOCAL AGENDA 21 IMPLICATIONS

4.1 Action to seek the reduction in height of the rear garden fencing would be in accordance with the Council's Local Agenda 21 Policy in particular with Key Theme No 13 which exists to combine beauty with utility within places, spaces and objects.

5 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 There are no equal opportunities implications.

6 BACKGROUND

6.1 The site concerned is a semi-detached bungalow at 45 Traquair Gardens, Dundee. The owner of this site erected unauthorised fencing to the front and rear plus a rear conservatory type structure. The owners were served with an Enforcement Notice in June 2002 and the Notice took effect on 19 July 2002. The Notice required the owners to remove the conservatory from the rear elevation, reduce the height of the rear garden fence to 2 metres and reduce the height of the front garden fence to 1 metre. The owners were given 60 days to comply with the Notice.

6.2 The owners lodged an appeal against the Notice and the Reporter UPHELD the retention of the rear conservatory but concluded that the fencing was visually detrimental to the appearance of the adjoining properties. He considered that the front garden fencing should be reduced to a height of 1 metre and the rear garden fencing be reduced to 2 metres from ground level. The fencing to the front of the

property has been reduced to 1 metre however the rear boundary fencing between 45 & 47 Traquair Gardens is still over 2 metres in height.

- 6.3 The council has two options to pursue this matter, the Council can either report the matter to the Procurator Fiscal or take Direct Action by entering onto the land in question to remedy the problem. However, cases must be reported within 6 months of the commencement of Enforcement Action so in this instance there is no option of reporting the circumstances to the Procurator Fiscal. Direct Action is the only solution available to the Council.
- 6.4 In carrying out this Direct Action, the Council will act in accordance with the advice and guidelines laid down within the Scottish Executive Development Department Planning Advice Note PAN54, "Planning Enforcement" and The Scottish Office Circular 4/1999 "Planning Enforcement".
- 6.5 No special powers of entry will be required, as there is provision within Section 156 of the Act to allow any Officer duly authorised in writing by the Planning Authority to enter land to execute the necessary steps. It is intended to undertake the works immediately and that the works will take a day to complete.

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.

8 BACKGROUND PAPERS

- 8.1 None.

Mike Galloway
Director of Planning & Transportation

Ian Mudie
Head of Planning

IGSM/IAR/LC/RJ

24 November 2003

Dundee City Council
Tayside House
Dundee