

REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 18 JUNE 2007

REPORT ON: PLANNING ENFORCEMENT AND TREE PROTECTION PERFORMANCE 2006/2007

REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION

REPORT NO: 219-2007

1 PURPOSE OF REPORT

- 1.1 To inform Members of the nature and extent of planning enforcement activity for the year 2006/2007 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 SUSTAINABILITY POLICY IMPLICATIONS

- 4.1 There are no sustainability issues arising directly from this report.

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. These provisions will be further enhanced by the Planning Etc (Scotland) Act 2006 as explained below.
- 6.3 Attention is drawn to the Minutes of the Development Quality Committee of 24 April 2006 (Report Ref 280-2006), 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

Appeals	2003/2004	2004/2005	2005/2006	2006/2007
Enforcement Cases Recorded*	253	369	380	400 (est)
Planning Contravention Notices Served	42	14	30	32
Breach of Condition Notices Served	0	0	0	0
Enforcement Notices Served	4	5	24	66**
Stop Notices Served	0	0	4	0
Amenity (Wasteland) Notices Served	15	6	0	0
Direct Action Authorisations by Committee	2	3	0	0
Advertisement Enforcement Notices	4	3	0	4
Listed Building Enforcement Notices	3	3	0	66
Enforcement and Amenity Notice Appeals	0	4(4)	3(3)	2 (1)
Enforcement and Amenity Notice Appeals Outstanding	-	2	4	0
Tree Replacement Notice Public Inquiry	0	0(0)	1(1)	-

*Number of enforcement enquiries received and investigated.

() = Dismissed

** 56 in respect of Whitehall Crescent

- 6.5 From the Table, Members will note that historic levels of enforcement activity are being maintained. The purpose of planning enforcement is to resolve the problem. Formal enforcement action is taken when a satisfactory outcome cannot be achieved through negotiation.

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 the team has administered requests from the public in respect of works to trees in Conservation Areas Orders and in respect of TPO's.

6.8 During 2006/2007, 6 Tree Preservation Orders were confirmed with a further 9 cases currently being progressed through their legal stages. During the year the Council undertook a major exercise to implement a Tree Replacement Notice by means of direct action following an unsuccessful appeal process.

7 IMPLICATIONS OF THE NEW PLANNING (ETC) SCOTLAND ACT 2006 FOR ENFORCEMENT AND TREE PROTECTION

7.1 The new Act introduces enhanced enforcement provisions including the statutory requirement for Councils to prepare and publish Enforcement Charters (the Council already has a Charter in place); administer new procedures for the issuing and enforcement of notifications for the initiation and completion of developments and related matters; the introduction of fixed penalty notices and temporary stop notices. All these measures are designed to enhance the planning enforcement powers of Councils and will have fundamental implications on how these aspects of its responsibilities are undertaken. A more detailed report will be prepared for the Committee when Regulations and further advice is available from the Scottish Executive.

7.2 Similarly, there will be changes to the manner in which TPO's are prepared, reviewed, enforced and administered.

8 CONSULTATIONS

8.1 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.

9 BACKGROUND PAPERS

9.1 Planning and Transportation Records.

9.2 Statutory TPO Register.

9.3 The Planning Etc (Scotland) Act 2006.

Mike Galloway
Director of Planning & Transportation

Ian Mudie
Head of Planning

IGSM/IAR/DDB

4 April 2007

Dundee City Council
Tayside House
Dundee