

COMMITTEE Planning Development Management Committee

DATE 28th May 2015

DIRECTOR: Pete Leonard

TITLE OF REPORT: Planning Enforcement Activity – October 2014 to March 2015

REPORT NUMBER CHI/15/189

1. PURPOSE OF REPORT

- 1.1 To inform Members of the planning enforcement work that has been undertaken by the Planning and Sustainable Development Service from 1st October 2014 to 31st March 2015

2. RECOMMENDATION

- 2.1 That Members note the contents of this report.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no specific implications for revenue and capital budgets, priority based budgeting, or state aid arising from consideration of this report. Some cost may be incurred if direct action to secure compliance with an enforcement notice is necessary. This can generally be accommodated within existing budgets, actions outwith budget parameters will trigger a specific report being submitted to Committee to seek authorisation or other instructions.

4. OTHER IMPLICATIONS

- 4.1 Normal Health & Safety at Work considerations apply. If successful enforcement is not carried out, there may be implications for health and safety in relation to specific unauthorised works. Scottish Ministers attach great importance to effective enforcement as a means of sustaining public confidence in the planning system. The long term credibility of the planning service is dependent on effective enforcement activity. Effective enforcement should result in greater protection for the environment. There would be no direct impact on any of the Council's property functions, unless breaches of planning control have occurred on land within the ownership of the Council. In such cases, the use of planning enforcement action against the Council as owner is not considered appropriate, and use of alternative powers by the Council as landowner is sought to resolve such breaches.

5. REPORT

- 5.1 This report provides an annual update for the Planning Development Management Committee of the enforcement work that has been pursued by the Development Management Section. The previous report, which was presented to the Development Management Sub-Committee in November 2014 , advised of the enforcement work that had been pursued by the Development Management Section for the 12 months up to 30th September 2014.
- 5.2 This report identifies all cases which have been investigated in the period from 1st October 2014 to 31st March 2015 with a view to determining whether or not a breach of planning control has taken place and whether it is expedient to take enforcement action. It details those cases that have been resolved and updates those cases that were under investigation prior to October 2014 and those that have required formal enforcement action. The attached spreadsheets provide a summary of each complaint / breach and an update of the current status and any related action.
- 5.3 It is evident that a number of cases have been resolved through negotiation and discussion, without recourse to formal enforcement action. In a number of circumstances, particularly where householders are concerned, the breaches are relatively minor and may have taken place because the parties were unaware of the requirement of the need for first obtaining planning permission. In many cases, the submission of a planning application and eventual grant of planning permission has resolved the situation.
- 5.4 A total of 99 new cases have been investigated since the last report. The majority (63) have been resolved without recourse to formal action by the approval of a retrospective planning application, by informal negotiation, or were found not to constitute a breach of planning control. The remainder (36 cases) are still under investigation and may require formal enforcement action if negotiation proves unsuccessful and if there is found to be a breach of planning control which has resulted in significant disamenity or threat to public safety. A proportionate approach will be taken in such decision making. Two enforcement notices have been served during the current reporting period.
- 5.5 It is a continuing trend that a significant proportion of complaints received are of a relatively minor nature and are frequently householder related cases (approximately half of all complaints). As these cases often do not relate to properties in conservation areas or involve protected trees, and often do not raise issues of public amenity or public safety concern, they are likely to be of lower priority in terms of consideration of possible enforcement action. However, these cases can give rise to very strong feelings between those affected, often taking up a good deal of officers' time in investigating / resolving a dispute.

- 5.6 The commitment of the Scottish Government to ensuring sustainable economic development places increased emphasis on considering the economic implications of enforcement activity. Factors such as employment retention and creation are therefore of increased weight in considering whether, in any given situation, it is expedient to take enforcement activity. There is also increased need to ensure that burdens imposed on developers in terms of planning conditions and planning obligations / legal agreements are proportionate and reasonable.
- 5.7 The following table provides a summary of the enforcement caseload since the previous report and divides the cases into new and those included in the previous report.

<i>New Cases – 1st October 2014 to 31st March 2015</i>	<i>Cases resolved</i>	63
<i>New Cases - 1st October 2014 to 31st March 2015</i>	<i>Under investigation or being negotiated</i>	36
<i>Update of cases from previous reports</i>	<i>Cases resolved and/or closed</i>	23
<i>Update of cases from previous reports</i>	<i>Being negotiated, awaiting planning application/appeal decisions, or referred for enforcement.</i>	33
<i>Enforcement Notices served</i>		2
<i>Enforcement Notices in process of being prepared</i>		2

- 5.8 An Enforcement Charter, which is a statutory requirement arising from implementation of the 2006 Planning (Scotland) Act, was adopted by the Council in June 2009 and revised May 2013 . This helps to explain the role of the planning enforcement team to the public, as well as setting priorities in terms of delivery of the planning enforcement service. Enforcement activity, including reporting, reflects the recommendations made within the Charter. A particular emerging issue which may be addressed in a future review of the Charter is the need to prioritise cases given the limited resources available to the service in investigating / pursuing enforcement action.

6. SERVICE & COMMUNITY IMPACT

- 6.1 Corporate - The enforcement of planning control links to the Council's core value that "Aberdeen City Council will strive to enhance the high quality of life within the City" and corporate objectives that "Aberdeen City Council will continually review, update and enforce the Aberdeen Local Plan in order to maintain the balance between development pressures and the need to conserve and enhance the City's natural environment." The report relates to the Single Outcome Agreement 12 "we value and enjoy our built and natural environment and protect it and enhance it for future generations."
- 6.2 Public - The Corporate Best Practice Guide on Human Rights and Equalities will be adhered to when deemed necessary to take enforcement

action. There is no requirement for Equalities or Human Rights Impact Assessment in this case.

7. BACKGROUND PAPERS

Relevant planning appeal decisions / letters issued within the relevant period and referred to above are available at the following weblinks :-

<http://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=114998>

(Former Water Works, Standing Stones, Dyce – Gypsy /Traveller Pitches)

The Council's Planning Enforcement Charter, which is referred to in section 5 above, is available in Council libraries and published on the Council's website at the following address:-

http://www.aberdeencity.gov.uk/web/files/sl_Planning/plan_enforce_charter.pdf

8. REPORT AUTHOR DETAILS

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Current Ward Index and Councillors

<u>Ward Number</u>	<u>Ward Name</u>	<u>Councillors</u>
1	Dyce/Bucksburn/Danestone	Barney Crockett Graeme Lawrence Neil MacGregor Gill Samarai
2	Bridge of Don	Muriel Jaffrey John Reynolds Willie Young Sandy Stuart
3	Kingswells/Sheddocksley/Summerhill	David John Cameron Steve Delaney Len Ironside CBE
4	Northfield/Mastrick North	Jackie Dunbar Gordon Graham Scott Carle
5	Hilton/Woodside/Stockethill	George Adam Lesley Dunbar
6	Tillydrone/Seaton/Old Aberdeen	Ross Grant Jim Noble Ramsay Milne
7	Midstocket/Rosemount	Jenny Laing Bill Cormie Fraser Forsyth
8	George Street/Harbour	Andrew May Jean Morrison MBE Nathan Morrison
9	Lower Deeside	Marie Boulton Aileen Malone M. Tauqeer Malik
10	Hazlehead/Ashley/Queens Cross	Jennifer Stewart Martin Greig Ross Thomson John Munro Corall
11	Airyhall/Broomhill/Garthdee	Ian Yuill Angela Taylor Gordon Scott Townson
12	Torry/Ferryhill	Yvonne Allan Graham Robert Dickson Alan Donnelly James Kiddie
13	Kincorth/Nigg/Cove	Neil Cooney Andrew William Finlayson