

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management
DATE	18 th August 2015
DIRECTOR	P Leonard
TITLE OF REPORT	Breach of Planning Control at 64 Queen's Road – Aberdeen
REPORT NUMBER	
CHECKLIST COMPLETED	Yes

1. PURPOSE OF REPORT

The purpose of this report is to inform the Committee in respect of a breach of planning control regarding the formation of car parking to the front of the property at 64 Queen's Road, Aberdeen and seek authorisation to commence enforcement action and redress in the Courts as deemed appropriate.

2. RECOMMENDATION(S)

It is recommended that the Committee authorise the serving of an Enforcement Notice upon Mr Graham Wood as the owner of the application property to rectify the breach of planning control. The applicant has had an application for planning permission refused (Ref: 141393) with the local review on that decision upheld on the 18th May 2015.

The breach should be remedied by increasing the level of landscaping within the application site boundary; this would involve providing a landscaped area between the two vehicular entrances (minimum width of 7 metres) and extending at right angles into the site towards the frontage of the building by a minimum of 10 metres at the apex of a curved end to the landscaped area. The said area shall be landscaped in accordance with a scheme submitted to and agreed by the planning authority.

It is not considered necessary to require the reinstatement of the ground levels that existed immediately prior to the unauthorised works being carried out or the removal of the raised terrace at the front of the building. Retention of these elements would not adversely impact on the character of the conservation area or the setting of the listed building.

In the event that the above works are not undertaken, or a revised scheme is not agreed with the Planning Authority authorisation is sought of the Committee to seek redress in the courts.

3. FINANCIAL IMPLICATIONS

Financial costs may be incurred should the Enforcement Notice not be complied with.

4. OTHER IMPLICATIONS

There will be implications in terms of staff time to prepare and issue the Enforcement Notice. Costs may be incurred if action is required to secure compliance with the Enforcement Notice.

5. BACKGROUND & MAIN ISSUES

Basis of Report

In September 2014 a retrospective planning application for planning permission (Ref: 141393) was submitted in relation to the formation of five car parking spaces to the front of the property. The work also involved alterations to the path to the front of the existing building (which is in office use) and small planter beds along each boundary wall at 64 Queen's Road, Aberdeen.

Following dialogue with Officers to find an acceptable solution, no such solution was forthcoming and the application for planning permission was refused on the 18th December 2015. A subsequent local review was submitted on the 17th March 2015, with the Officers decision upheld.

It should be noted that a further planning application (Ref: 151102) was submitted on the 8th July 2015 for the formation of a landscaped area/driveway to the front of the property. This application is broadly in line with what is outlined above as being an acceptable solution. However, committee authorisation is still sought, so that enforcement action can be taken if the remedial works are not undertaken in a timescale that is to the satisfaction of the planning authority or as may be specified in the grant of a planning permission.

The Enforcement Position

Section 127(l) of the Town and Country Planning (Scotland) Act 1997 (the Act), as amended, states that a planning authority may issue an enforcement notice where it appears to them:

- (a) That there has been a breach of planning control, and

- (b) That it is expedient to issue the notice, having regard to the provisions of the development plan and any other material considerations.

Paragraph 7 to Circular 10 of 2009 “*Planning Enforcement*” notes that planning authorities have a general discretion to take enforcement action against any breach of planning control. The paragraph goes on to state that when authorities consider whether enforcement action is expedient they should be guided by a number of considerations that include:

- Whether the breach of planning control would affect unacceptability either public amenity or the use of land and buildings meriting protection in the public interest; and
- Enforcement action should be commensurate with the breach of planning control to which it relates.

Planning Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability or preserving or enhancing the character or appearance of conservation areas.

The proposal involved the formation of a car parking area and raised terrace (with associated landscaping) to the front of an office building on Queen’s Road. Policy BI3 (West End Office Area) of the Aberdeen Local Development Plan states that “*the development of associated front gardens to car parks and driveways, and the subsequent erosion of associated landscaping will not be permitted*”.

The Council’s Supplementary Planning Guidance on Transport and Accessibility also advises that the conversion of front gardens will only be permitted where the site is outwith the West End Office Area, where the rear garden is not an option and where on-street parking is not available within the vicinity. The property is located within the West End Office Area, the rear garden ground could be converted into parking (similar to adjacent properties) and on-street parking is available along Queen’s Road. The proposal fails to accord with the Transport and Accessibility Supplementary Planning Guidance.

The planning application was refused for the following reasons:

1. The proposal fails to accord with Policy BI3 (West End Office Area) of the Aberdeen Local Development Plan or Policy B3 (West End Office Area) of the emerging local development plan, which advises that the formation of car parking and the erosion of associated landscaping will not be permitted; and

2. The proposal fails to accord with Scottish Planning Policy, Policy D5 (Built Heritage) of the Aberdeen Local Development Plan or Policy D4 (Historic Environment) of the emerging local development plan in that the proposal would have a negative impact on the character and appearance of both the Category "B" listed building and the wider conservation area.

The planning application sought to form a large area of hard standing to the front of the property that never previously existed. The larger area of hard standing negatively impacts on the character and appearance of the conservation area, in particular when considered against what previously existed on the site – a semi-circular gravel driveway and considerable grassed area. The proposed development does not respect the character and appearance of either the listed building or the wider conservation area and thus its retention in its current form would be contrary to the provisions of section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, which places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

6. IMPACT

Health and Safety - No health & safety implications have been identified.

Risk Management - If breaches of planning control are not followed up, then this could act as an encouragement for other developments to take place without the necessary planning permission and consequent effective control over environmental impacts.

Equal Opportunities - No equal opportunity issues have been identified.

Social - No social issues have been identified.

Economic – No economic issues have been identified

7. MANAGEMENT OF RISK

It is considered that this matter does not negatively impact upon the five specialist risk related areas.

8. BACKGROUND PAPERS

Background papers include written correspondence, emails, the associated planning application (Ref: 141393) and the local review bodies decision of the 18th May 2015.

9. REPORT AUTHOR DETAILS

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