

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management
DATE	29 October 2015
DIRECTOR	Pete Leonard
TITLE OF REPORT	Breach of Planning Control at 31 Craigshaw Drive, West Tullos, Aberdeen
REPORT NUMBER	
CHECKLIST COMPLETED	No

1. PURPOSE OF REPORT

The purpose of this report is to inform the Committee in respect of a breach of planning control regarding the extension of a car sales forecourt at the front of the Mercedes-Benz of Aberdeen showroom at 31 Craigshaw Drive, West Tullos, 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 Arnold Clark Group Estates as the owner of the application property to rectify the breach of planning control. The applicant has had an application for retrospective planning permission refused (ref: P150727) on 3 September 2015.

The breach should be remedied by reinstating the landscaped area covered by the extended forecourt and the replanting of at least five trees within this area, in accordance with a scheme submitted to and agreed by the planning authority.

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 November 2013, an application for the formation of seven display parking spaces was submitted (ref: P131746). This entailed the provision two display areas to the east of the existing forecourt to the front of the showroom (one with capacity for four cars to the north and one for three cars to the south). This application was approved subject to conditions on 7 April 2014.

Following on from this, a much larger extension to the forecourt was constructed, measuring 48 x 10 metres and surfaced with lockblock paving without consent. After this was constructed, dialogue between the Council and the applicant resulted in the applicant wishing to submit a retrospective application for the works. Officers at the point intimated that the application would likely be refused.

A retrospective application was submitted for the extension to the car sales forecourt in May 2015, with the application refused under delegated powers on 3 September 2015. It should be noted that the application can be appealed to the Local Review Body and the applicant has three months from the date of decision to do so. Committee authorisation is sought, however should an appeal be submitted within the time specified enforcement action would stop pending the outcome of said appeal.

The Enforcement Position

Section 127(I) 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.

The proposal involved the formation of an extension to the car sales forecourt surfaced with lockblock paving to the front of a car showroom fronting to Wellington Road (A956).

The resultant encroachment of the car sales forecourt into a landscaped area, which along with areas of landscaping to the front of premises on the western side of Wellington Road, results in a detrimental impact on the amenity of the surrounding area. This buffer strip provides a degree of green space and a visual buffer along a main arterial route to the south of the city and is therefore considered to be a valuable public amenity. In addition, no information was provided on the capacity of the existing surface water drainage system at the premises into which the surface water from the showroom would run into, and whether this is sufficient to accommodate the additional run off.

Accordingly, the application was refused for the following reasons:

1. The extension to the forecourt fails to comply with the requirements of policy D1 – Architecture and Placemaking of the Aberdeen Local Development Plan 2012 whereby the development is detrimental to the character and amenity of the surrounding area.
2. The extension to the forecourt is contrary to the requirements of Aberdeen Local Development Plan 2012 policy NE5 – Trees and Woodland as it has resulted in the loss of established trees that contribute significantly to the local landscape.
3. The development fails to demonstrate that surface water is treated in the most appropriate manner in terms of SuDS, being connected to the existing surface water drainage system and no information was provided with the application that demonstrates the existing surface water drainage system has capacity, contrary to policy NE6 – Flooding and Drainage of the Aberdeen Local Development Plan 2012.

Concluding Comments

For the reasons set out above the works constitute a breach of planning control and it is considered expedient to commence enforcement proceedings in the public interest, whilst allowing redress to the Courts.

6. IMPACT

Corporate

The enforcement action would:

- contribute to “Aberdeen – The Smarter City Vision”, by helping to provide an attractive streetscape and promote bio-diversity and nature conservation;
- contribute to the vision of the Community Plan and the Council’s Single Outcome Agreement in promoting a strong image of the City and a sense of civic pride; and
- be in line with the Council’s 5 year Corporate Business Plan, which states the Council will protect and enhance the City’s high-quality natural and built environment.

Public

An Equalities and Human Rights Impact Assessment (EHRIA) has not been carried out in relation to the enforcement action, because it was considered to have a neutral effect. A Privacy Impact Assessment was also considered to be unnecessary in this case.

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 and the associated planning applications (refs: P131746 and P150727).

9. REPORT AUTHOR DETAILS

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