

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Planning Development Management Committee
<b>DATE</b>	15 May 2024
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Planning Enforcement Activity Report – April 2023 to March 2024
<b>REPORT NUMBER</b>	CR&E/2/4/148
<b>EXECUTIVE DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	David Dunne
<b>REPORT AUTHOR</b>	Dineke Brasier
<b>TERMS OF REFERENCE</b>	3

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### **1. PURPOSE OF REPORT**

- 1.1 To inform Members of the Planning Development Management Committee of the planning enforcement work that has been undertaken by the Planning Service from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024.

### **2. RECOMMENDATION(S)**

- 2.1 That Members note the contents of this report.

### **3. CURRENT SITUATION**

- 3.1 This report provides an annual update for the Planning Development Management Committee regarding the enforcement work that has been pursued by the Development Management Team in Strategic Place Planning.
- 3.2 Appendix 1 to this report identifies all planning enforcement cases which have been investigated with a view to determining whether 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 identifies those that have resulted in formal enforcement action. The Appendix provides a summary of the complaint / alleged breach, an update of the current status as of 1<sup>st</sup> April 2024 and any related action.
- 3.3 The information indicates that the majority of cases have been resolved through negotiation and discussion, without recourse to use formal enforcement action. In most circumstances, particularly where householder related matters are concerned, the breaches tend to be 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 breach.
- 3.4 A total of 231 new cases have been investigated since 1<sup>st</sup> April 2023. This is a slight increase from 226 in the previous reporting year. The majority of these

(140) have been resolved without recourse for formal action. Resolution of these cases fell into one of the following categories: -

- By the submission and approval of a retrospective planning application.
- By informal negotiation resulting in the breach being rectified by the offending party.
- Where the breach is minor, and it would not be reasonable or economical to progress to formal action.
- No breach of planning control had occurred.

- 3.5 The remaining 91 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 loss of amenity or threat to public safety.
- 3.6 Of the historic enforcement cases previously investigated (prior to 1<sup>st</sup> April 2023), 35 are still unresolved and may require formal action to ensure a satisfactory outcome.

21 formal enforcement related notices have been served during the current reporting period. This figure covers new and historic cases.

- 3.7 It is a continuing trend that a significant proportion of complaints received are of a relatively minor nature; these are mostly householder cases. As these cases often do not relate to the priorities identified for action in the Council's Enforcement Charter (which are Union Street, properties in conservation areas, involving protected trees or raising issues of public amenity or public safety), they are likely to be of lower priority in terms of consideration of enforcement action, notwithstanding the statutory duty to investigate all enforcement complaints. However, these cases can give rise to very strong feelings amongst those affected, often taking up a significant proportion of officers' time in investigating/resolving a dispute, disproportionate to the scale of the breach.
- 3.8 The previous annual enforcement report raised significant issues faced by the Enforcement Team relating to the ability to proceed with direct action following the issue of Enforcement Notices due to the financial implications associated with direct action. This matter was progressed, and at the Full Council meeting in March 2024 it was agreed that funds be made available as part of the 2024/25 budget to progress direct action in respect of cases within the City Centre.
- 3.9 In the reporting period the Planning Enforcement progressed a programme of contacting building owners to achieve 'quick wins' through requiring the removal of vegetation on upper floors and repairs to drainage and windows and other built fabric. These were sought to improve the overall appearance of the buildings on Union Street and the wider city centre streetscape.
- 3.10 The following table provides a summary of the enforcement caseload since 1<sup>st</sup> April 2023, and divides the cases into new and those within the previous reporting period. Figures stated are as of 31<sup>st</sup> March 2024.

New Cases – 1st April 2023 to 31st March 2024	Cases resolved & no further action required.	140
New Cases - 1st April 2023 to 31st March 2024	Under investigation, being negotiated, or application decisions pending.	91
Outstanding cases registered prior to 1 <sup>st</sup> April 2023 (historic cases)		35
Enforcement Related Notices served		21

3.11 The Council has a statutory requirement set out in the Planning etc. (Scotland) Act 2006 to prepare an Enforcement Charter. There is a further requirement to review this document every two years. The current version dates from July 2022. The Enforcement Charter has recently been reviewed in line with this statutory requirement, with a draft version of the updated document appended at Appendix 2 for agreement. The Charter 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.

#### 4. FINANCIAL IMPLICATIONS

4.1 There are no specific implications for revenue or capital budgets, property-based budgeting, or state aid arising from consideration of this report. Some costs may be incurred in pursuing direct action to secure compliance with an enforcement notice if necessary. Other costs include title searches relating to the serving of Enforcement Notices, which 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.

#### 5. LEGAL IMPLICATIONS

5.1 There are no legal implications arising from this report.

#### 6. ENVIRONMENTAL IMPLICATIONS

6.1 There are no environmental implications arising from this report.

#### 7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)	*Does Target Risk Level Match Appetite Set?
Strategic Risk	N/A			N/A
Compliance	N/A			N/A
Operational	N/A			N/A

<b>Financial</b>	Financial costs may be incurred should Enforcement Notices not be complied with and Direct Action is required and pursued	The risk can be mitigated by ensuring there is funding available from the appropriate budget for direct action to be taken. In the event that direct action is required we will seek to recover all the costs of the required action from the landowner in accordance with the relevant legislation.	L	<b>Yes</b>
<b>Reputational</b>	There may be a negative impact if the Council do not decide to proceed with enforcement action, particularly in the city centre.	Proceed with appropriate enforcement action where required.	L	<b>Yes</b>
<b>Environment / Climate</b>	Not undertaking enforcement action could result in adverse impacts on the built and natural environment	Proceed with appropriate enforcement action where required.	L	<b>Yes</b>

## 8. OUTCOMES

<b><u>COUNCIL DELIVERY PLAN 2023-2024</u></b>	
Aberdeen City Council Policy Statement  Working in Partnership for Aberdeen	The proposals in this report have no impact on the Council Delivery Plan.
<b><u>Aberdeen City Local Outcome Improvement Plan (2016-2026)</u></b>	
Prosperous Economy Stretch Outcomes	The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen. This report monitors indicators which reflect current economic activity within the city and actions taken by the Council to support such activity.
Prosperous People Stretch Outcomes	The Council is committed to improving the key life outcomes of all people in Aberdeen. This report monitors key indicators impacting on the lives of all

	citizens of Aberdeen. Thus, the Planning Service will need to measure the effectiveness of measures already implemented, as well as allowing an evaluation of future actions which may be required to ensure an improvement in such outcomes.
Prosperous Place Stretch Outcomes	The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit, operating to the highest environmental standards. This report provides essential information in relation to enforcement related issues to measure the impact of any current action.
<b>Regional and City Strategies</b>	N/A

## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Integrated Impact Assessment</b>	It is confirmed by Chief Officer – Strategic Place Planning that no Integrated Impact Assessment is required.
<b>Data Protection Impact Assessment</b>	Not required.

## 10. BACKGROUND PAPERS

10.1 None

## 11. APPENDICES

11.1 Appendix 1 – Enforcement Cases – April 2023 to March 2024

11.2 Appendix 2 – Draft Enforcement Charter – May 2024

## 12. REPORT AUTHOR CONTACT DETAILS

<b>Name</b>	Dineke Brasier
<b>Title</b>	Senior Planner
<b>Email Address</b>	<a href="mailto:dbrasier@aberdeencity.gov.uk">dbrasier@aberdeencity.gov.uk</a>