

ANGUS COUNCIL

PLANNING AND TRANSPORT POLICY COMMITTEE

23 MAY 1996

**SUBJECT: ENFORCEMENT ACTION
PITEMPTON HOUSE, STRATHMARTINE**

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: This report relates to a recommendation to initiate an Enforcement Action in respect of a change of use of land at Pitempton House, Pitempton Road, Strathmartine, by Dundee, from use as a Dairy Farm to use as a storage area for Builders' materials and associated impedimenta.

1 RECOMMENDATION

That authority be granted to commence enforcement proceedings requiring the occupiers of the above property to clear all building materials and impedimenta from the land.

2 INTRODUCTION

- 2.1 The property lies on the east side of Pitempton Road beyond the northern limits of Dundee. The nearest house on Pitempton Road lies some 80 metres to the south on elevated ground beyond which are housing facing Pitcur Street and Pitcairn Road. The site, though close the City boundary, is surrounded by open fields and the general character of the area is rural rather than urban. The yards is clearly visible from Pitempton Road and is particularly conspicuous when overlooked from the higher land to the south.
- 2.2 Pitempton House is a 1 one and a half storey dwelling which has an enclosed garden to the south. The site in question, which lies to the north of the house, includes the yard and buildings. To the north and west of the house is a surfaced yard containing a number of buildings. A brick and slate building stands on the west boundary, next to the road, and there are various less substantial buildings around the periphery of the yard. The buildings and yard have been used for the manufacture, storage and sale of concrete products. These have included ornamental paving slabs and blockwork, edgings, lintels and garage panels.
- 2.3 Manufacturing and retailing may have stopped within the site but it continues to accommodate a considerable amount of concrete products and impedimenta associated with the unauthorised use to the detriment of the visual amenity.

3 CASE HISTORY

- 3.1 An application relating to the land for a retrospective change of use from vacant ground to builder's yard was refused planning permission on 31 May 1993. Planning reference D18214 refers.
- 3.2 On 29 September 1993 an Enforcement Notice was served on the occupiers of the land requiring them to stop using the land and buildings thereon for a Builder's business, any manufactory in connection therewith, storage of builder's materials and operating any retailing business therefrom.
- 3.3 Prior to the Notice taking effect an appeal was lodged with the Secretary of State. In a written submission, dated 20 April 1995, the Inquiry Reporter appointed to determine the appeal dismissed it and directed that the Enforcement Notice be upheld, subject to a variation in the period for compliance specified in the Notice. This was increased from 14 days to three months.
- 3.4 On 8 August 1995 a letter was sent to the occupiers, by Dundee District Council Planning Department. This advised that they should have complied with the requirements detailed in the Enforcement Notice before 20 July 1995 and asked that they confirm their intention in writing to clear all building materials etc. from the land. On 10 November 1995 a further letter was sent to the occupiers regarding their failure to respond to the aforementioned letter or clear the building materials from the land. A further written response was requested but this letter too was ignored.
- 3.5 While failure to comply with the requirements of an Enforcement Notice is a criminal offence, punishable by fines up to £20,000 on summary conviction, it is necessary in terms of Section 331(1) of the Criminal Procedure (Scotland) Act 1975 to bring the matter to trial within six months of the period of compliance ending, i.e. 20 April 1995.
- 3.6 The site was visited twice in early April. There was no one in the yard, outbuildings or house on either occasion. The yard and outbuildings continue to accommodate ornamental paving slabs, edgings, lintels, sills, moulds for manufacturing concrete products, sections for prefabricated concrete garages, sand, gravel and a cement mixer.
- 3.7 On 16 April 1996 a letter was sent to the occupiers advising that a report would be considered by the new Angus Council with a view to sanctioning the service of a new Enforcement Notice.

4 FINANCIAL IMPLICATIONS

- 4.1 There are no significant financial implications.

5 CONSULTATION

- 5.1 The Department of Law and Administration was consulted in the preparation of this report.

6 CONCLUSION

- 6.1 The unauthorised use constitutes an undesirable intrusion into an area of open countryside and detracts from the visual amenity enjoyed by the occupiers of surrounding properties.
- 6.2 The occupiers of Pitempton House chose not to comply with the requirements of an Enforcement Notice issued by Dundee District Council. The service of a new notice with a firm commitment to report any failure to comply to the Procurator Fiscal is deemed necessary to achieve a satisfactory remedy.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

AA/KW
14 May 1996

Alex Anderson
Director of Planning, Transport & Economic Development

