

# ITEM No. 3 (c)

Report No 1113/97

## ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

23 OCTOBER 1997

**SUBJECT: ENFORCEMENT ACTION  
NO. 3 COTTAGE, WHITEHILL FAULDS, AUCHTERHOUSE**

**REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT**

**Abstract:** This report presents the circumstances relative to the erection of a building at the above property without planning consent. It is recommended that action be taken against the owner of the property if no retrospective application is submitted for the erection of the building.

### 1 RECOMMENDATION

It is recommended that the Committee agree to enforcement action in relation to the erection of a building without planning consent at No. 3 Whitehill Faulds, Auchterhouse.

### 2 INTRODUCTION

2.1 The site is located to the west of Auchterhouse village (approximately one mile) and lies on the north side of Bonnyton Road. The site lies in a natural hollow in the land and is accessed from Bonnyton Road by an unmade farm track which accesses four existing dwellings. The property under consideration is the westmost of a terrace of three new but traditionally appointed cottages.

### 3 CASE HISTORY

- 3.1 Planning consent was granted to a Dr. Miller on 1 September 1993 for the erection of a double garage at the westmost cottage of the Whitehill Faulds development in the front garden area. This garage which was 60m<sup>2</sup> in footprint and 5.5 metre high has never been built. Application D18394 refers.
- 3.2 On 21 March 1995, Dr. Miller's agent a D. Reilly of Perth Drafting Services enquired from Dundee District Council about the change of use from the garage to a house. He was advised this was contrary to Local Plan policies and that such a proposal would not be supported.
- 3.3 Just after Local Government Reorganisation, Dr. Miller contacted Angus Council regarding the same query and was given the same advice, i.e. that such a proposal would not be supported.
- 3.4 On 24 April 1997, local residents advised that Dr. Miller had started construction of a garage larger than that granted consent. This was investigated and it was discovered that foundations had been laid down. However, under current planning legislation Dr. Miller was allowed to carry out certain constructions without the requirement for planning consent and at this time no breach of planning control was

evident. As such no further action could be taken. No further work, other than the laying of foundations was carried out for a considerable period. The residents were asked to advise the Council if any further work was carried out.

- 3.5 On 8 September 1997, at 9.35 a.m. Dr. Miller contacted the Planning Department again seeking advice on whether change of use would be granted from a double garage to a house. He also requested a meeting. He was advised that the policies had not changed and that support was unlikely to be forthcoming. He considered that it would be easier to gain consent for a house if the garage was already built. He was again advised this was unlikely. He said he would speak to his architect before going any further. Dr. Miller failed to turn up for a meeting which he himself had sought and which had been arranged for 10 a.m. on 9 September 1997.
- 3.6 On 1 October 1997, local residents advised that construction works were starting again. A visit by the Enforcement Officer confirmed that a structure more substantial than a double garage was being constructed (timber frame with concrete block on the outside). Mr. Miller was sent a letter first class by registered post on 3 October to his house and his surgery in Ardler. He was advised to stop work and to contact the Planning Department by 5 p.m. on 8 October. The letter raised concerns about the construction of the building and advised that it appeared that the structure would exceed permitted development rights. A builder on site advised that he considered he was building a house.
- 3.7 Dr. Miller failed to respond to the letter of 3 October. A visit on 8 October showed that works were still ongoing and that a roof had been placed on the building, taking its height to circa 7-8 metres which represented a clear breach of planning control. Builders on site advise that Dr. Miller had told them he had consent for a double garage, workshop and offices above. They were advised he had no such consent. A Building Control Officer investigating the site was told earlier that day, by Dr. Miller, that he was constructing a workshop to create components for kit homes. This again, by itself would require planning consent.
- 3.8 A Planning Contravention Notice was posted by hand by two Council Officers at 4.10 p.m. on 9 October 1997 at which time building work was still in progress. At the time of writing no response has been received.
- 3.9 The structure under construction has no Building Warrants and the Building Control Department are pursuing this under their own legislation.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

#### **5 CONSULTATION**

- 5.1 The Chief Executive, Directors of Finance and Law & Administration have been consulted in the preparation of this report.

**6 CONCLUSION**

- 6.1 Dr. Miller has been advised of the need for planning consent for the works he is carrying out, no matter what the proposed end use of the building. He has also been advised that he should stop work and that work carried out without the benefit of planning consent is at his own risk. In order to allow matters to be dealt with properly he has been further advised to submit a planning application.
- 6.2 At the time of writing this report, the Department had just been advised that Dr. Miller was to reply to the Planning Contravention Notice and would be submitting a retrospective application. Accordingly, it is considered that should no application be received within a reasonable timescale then enforcement action be taken.

**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/AB/1.54/D.4/IAL  
15 October 1997

Alex Anderson  
Director of Planning, Transport & Economic Development

