

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

13 NOVEMBER 1997

**SUBJECT: ENFORCEMENT ACTION
20 STRANGS LEY, FORFAR**

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: This report presents the circumstances surrounding an alleged breach of condition in respect of a planning permission for the erection of a boundary fence at 20 Strangs Ley, Forfar.

1 RECOMMENDATION

It is recommended that the Committee agree that the alteration in position of the boundary fence does not constitute a significant departure from planning permission reference 01/97/1339 and as such no additional planning application is required and enforcement action is inappropriate.

2 INTRODUCTION

2.1 A letter of complaint has been received from Miller Hendry Solicitors and Estate Agents on behalf of Mr. and Mrs. Allen regarding a boundary fence erected at 20 Strangs Ley, Forfar by Mr. and Mrs. Cameron.

3 CASE HISTORY

3.1 A planning application was received on 23 April 1997 for the erection of a two metre high boundary fence at 20 Strangs Ley, Forfar for Mr. and Mrs. Cameron.

3.2 An objection to the application was received from Mr. and Mrs. Allen. The main issues raised related to the nature of the fence and the danger this would pose for children, loss of amenity, and the erection of the fence along a mutual boundary.

3.3 The application was presented to Committee on 12 June 1997 with a recommendation of approval. Mr. Allen addressed the Committee however despite his representation permission was granted subject to two standard conditions. These were:-

- That the development hereby permitted shall be begun before the expiration of five years from the date of this permission or, if outline planning permission has previously been granted, five years from the date of that outline permission.
- That no alterations or amendments be made to the details contained in the approved and docketted plans unless so indicated by the conditions attached to this consent or agreed in writing by the planning authority.

- 3.4 The approved plans show the fence erected approximately 150mm from the boundary line, entirely within the curtilage of the applicant's property. The plans specify timber slats of 200mm x 25mm and indicates that they will be stained redwood.
- 3.5 Mr. and Mrs. Allen have now complained to the Planning Department alleging that the fence has not been erected in the correct position, is of different colour and appearance to other fences in the area and that the concrete foundation pads have not been constructed in accordance with the approved plans.
- 3.6 MacLean & Lowson, Solicitors, have responded to this on behalf of Mr. and Mrs. Cameron indicating they believe the fence to be in the correct position and that the complaint stems from a long running dispute between neighbours.

4 COMPLAINT CONSIDERATION

- 4.1 The complainants main concern relates to the position of the new fence in relation to the existing boundary fence and the difficulties this will create for maintenance.
- 4.2 As stated the approved plans show the new fence located approximately 150mm in from the boundary line. Having visited the site it would appear that the fence has been erected approximately 130mm from the boundary line. I would suggest that a difference of 20mm does not represent a significant departure from the approved plans and will not reduce the possibility of maintenance. Whilst the fence is also closer to the boundary line of 18 Strangs Ley no objection has been received from this neighbour and in any case I do not find the amended position unacceptable.
- 4.3 With regard to colour and style I would advise that the fence has been constructed in accordance with the approved plans. The fence has been stained brown and I have no objection to this.
- 4.4 Finally there is a complaint regarding the location of the concrete foundation pads however as these are entirely underground I am not in a position to verify this statement. The location or specification of these foundations is of little significance in planning terms as they are underground and on their own do not even require planning permission.
- 4.5 Ultimately whilst the position of the fence as erected does vary slightly from that shown on the approved plans, I do not consider 20mm to be significant. The amended position does not render the fence unacceptable and on this basis further action is inappropriate.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications.

6 CONSULTATION

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

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/AH/IAL/KW
5 November 1997

Alex Anderson
Director of Planning, Transport & Economic Development

