

ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

13 MARCH 1997

SUBJECT: ENFORCEMENT ACTION - DOUGLASTOWN, BY FORFAR

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

Abstract: This report presents the circumstances relative to a recommendation to take enforcement action in respect of various breaches of planning legislation and non-compliance with determined enforcement action by Messrs R S Hill, Joiners and Building Contractors, Douglastown, Forfar

1 RECOMMENDATION

It is recommended that the Committee agree to take action against:

1. a setting down/storage area created without the benefit of planning permission; and
2. a change of use on a dwellinghouse from that of domestic to that of storage; both on land in the occupation of Messrs R S Hill at Douglastown, Angus.

2 INTRODUCTION

- 2.1 Neither of the works described above benefit from permitted development status and in consequence the creation of what can be adequately described as a "builders yard" and a commercial store require to be authorised by means of formal planning permission.

3 CASE HISTORY

- 3.1 On 1 July 1991, R S Hill was granted planning permission to construct a car park in a field opposite this Company's place of business (Ref 01/91/0253). The area to be utilised was to measure 50 metres x 30 metres and incorporate a 2 metre timber screen fence running parallel to and set back from an unadopted service road. The rear of this car park was to be bounded by a post and wire fence and each of the four sides were to be further screened by the planting of a mixture of trees and shrubs.
- 3.2 A further application (No 01/91/0699) was submitted in August 1991 to create "a setting down area" within the car park and for the erection of stables/barn also within the car park.
- 3.3 Objections were received to this application and the members of the Planning Committee were not disposed to approving the application but deferred the application for further discussion with the applicant.

- 3.4 Before successful discussions could be achieved, the site was visited on 24 June 1992 when it was discovered that development had taken place within the field referred to but exceeded that for which planning permission had been previously granted.
- 3.5 The unauthorised development included the part erection of stables (in a more sensitive location than that applied for) and use of the field including part of the car park as a builders' yard.
- 3.6 On 10 March 1993 three Enforcement Notices were served on Messrs R S Hill requiring:
- I. the removal of a larch lap panel fence bordering the Forfar - Perth A94 road in excess of 1 metre in height above ground level;
 - II. the removal of stored building material, associated equipment, the partial erection of various buildings together with the provision of private and commercial vehicle parking; and of a wall topped by means of a wooden fence running parallel to an unadopted service road within Douglastown village and which permits access to "The Row"; and
 - III. the removal of a large amount of soil stored in a field adjacent to the junction of the Forfar -Perth A94 road and the Douglastown - Arbirlot B9127 road.
- 3.7 Discussion was entered into with R S Hill and his agent into each individual matter identified by the Enforcement Notices and this resulted in:
- Notice I. remaining in place;
- Notice II. being withdrawn and reissued as two separate Enforcement Notices and dated 16 May 1994 and;
- Notice III. the soil was removed from its storage position and used to improve levels within the field resolving that particular situation.
- 3.8 Thereafter, Messrs R S Hill appealed all three Enforcement Notices. This resulted in:
- a) the larch lap panel fence being granted planning permission for a period of five years; and
 - b) both of the other two appeals being dismissed.
- 3.9 R S Hill and his agent were again involved in discussion which resulted in the wall, topped by means of a wooden fence, running parallel to the unadopted service road being reduced in height to the satisfaction of this Department and local residents. However, the situation regarding the storage of building materials and vehicles remains unaltered with the concrete floor, bins and storage still in place.

4 CURRENT ISSUES

- 4.1 On 31 May 1994 Mr Hill was granted Planning Permission (Ref 01/92/1064) for the erection of a horse shelter on an area of ground directly north west from his business address and across the Forfar-Perth A94 Road. However, following complaints it was noted that the area of ground was being used as a builders setting down/storage area. In addition Mr Hill was making use of a dwellinghouse again located directly north west from his business address and across the Forfar-Perth A94 Road for the storage of materials in the furtherance of his business, specifically kitchen cabinets etc without the requisite planning permission.
- 4.2 Whilst the situation regarding the building material has been resolved, Mr Hill has made no determined effort to either:
- I. remove the stored materials from the dwellinghouse; or
 - II. submit a planning application seeking permission to retain the material referred to herein.

5 FINANCIAL IMPLICATIONS

- 5.1 There are no significant financial implications.

6 CONSULTATION

- 6.1 The Director of Law and Administration has been consulted in the preparation of this report.

7 CONCLUSION

- 7.1 Council policy does not create undue difficulty for those involved in private business, particularly where there is an employment factor involved. However, Mr Hill has not complied with statutory requirements. The creation of a "builders yard" has had a detrimental effect upon the visual amenity of what was once a rural village setting. Although an Enforcement Notice remains in place in relation to the settling down concrete floor, bins and storage it is time barred for prosecution in the criminal courts. The Criminal Procedure (Scotland) Act 1975 as amended requires such action to commence within a six month time scale. A further Enforcement Notice would require to be served with this limitation in mind.

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/GC/MR

27 February 1997

Alex Anderson
Director of Planning, Transport & Economic Development

