

# ITEM No. 7

Report No 517/97

## ANGUS COUNCIL

DEVELOPMENT CONTROL COMMITTEE

6 MAY 1997

### SUBJECT: ENFORCEMENT ACTION ALEHOUSEHILL, FRIOCKHEIM

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 Alehousehill, Friockheim, by Arbroath, from use as garden ground to use as a delivery point for timber and timber products, the preparation of wood for delivery to sites and the manufacture of items of joinery.

#### 1 RECOMMENDATION

It is recommended that authority be granted to commence enforcement proceedings requiring the owner of the land, Mr. Neil Penman, to stop having timber and timber products delivered to the property and to cease making items of joinery.

#### 2 INTRODUCTION

2.1 The property, a bungalow, is one of two dwellinghouses located at Alehousehill. They are situated on a triangular shaped area of land immediately to the north of the Vinny Water and south of the A932, Forfar to Friockheim road. Access is gained via a narrow shared driveway from the A932. The rear of Mr. Penman's house is situated close to the northern boundary of the adjacent property which is owned and occupied by the complainer. The preparation, manufacture and finishing of timber products takes place immediately to the east of the bungalow on a large concreted area. Against this elevation there is a lean-to structure used to store wood and operate a circular saw. A garage on the site apparently functions as a store and workshop.

2.2 Mr. Penman's business, Clark & Penman, Joiners and Building Contractors, Alehousehill, Friockheim, Angus, formerly a partnership is now basically a father and son operation. He has a workshop in Millgate, Friockheim. The business address given is quoted from the firm's notepaper.

#### 3 CASE HISTORY

3.1 In September 1996 a complaint was received regarding Mr. Penman carrying out joinery works within his house curtilage. Photographs taken by the complainer in August and September 1996 show a greenhouse, what appears to be two dormers and a shed being constructed and windows and a harrow pattern door being glazed. Subsequent photographs show a variety of large vehicles making deliveries. These include vehicles owned by: Scotland Ltd., Manufacturers of Windows, Doors and Conservatories; Keyline, Builders Merchants Ltd.; and Rembrand Timber Ltd. In addition the complainer has kept a log of what he perceives to be joinery works

taking place. This indicates that in the month of November works took place on 16 occasions for periods of time varying from 70 minutes to 9 hours.

- 3.2 Mr. Penman was advised as to the nature of the complaint and a letter reiterating same was sent to him on 9 October. This also stated that photographs showing works taking place were now to hand. Following further informal discussions Mr. Penman intimated that he had instructed an agent to submit a planning application to utilise part of his garden ground as an adjunct to his joinery business. When this was not forthcoming a further letter was sent to him on 14 January requiring the submission of an application within 28 days failing which consideration would have to be given to initiating an enforcement action.
- 3.3 On 25 March another letter was sent to Mr. Penman advising that the circumstances were to be reported to the Development Control Committee in May when permission would be sought to initiate an enforcement action to regain planning control. In a fax response, received later that day, Mr. Penman denied carrying out joinery works at Alehousehill. He advised that occasionally items of timber were delivered to the house when it was not suitable to do so at the workshop. He implied that such deliveries were restricted to perishable items such as plywood, units etc. and only made when he is on site and his Millgate workshop closed. He also advised that he is in the process of having plans drawn up in respect of a garage workshop he proposes erecting at Alehousehill.
- 3.4 In responding to the aforesaid fax on 26 March it was made clear to Mr. Penman that a retrospective application for planning consent was required for an apparent change of use. Clarification was also sought regarding the status of the proposed garage workshop. Was it to be "incidental to the enjoyment of the dwellinghouse as such" or part of his commercial activity?
- 3.5 The complainer advises that Mr. Penman already has a garage on his property which is used solely as a store and occasional workshop. While works undertaken therein cannot be seen the sounds issuing forth clearly indicate wood is being worked.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

#### **5 CONSULTATION**

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

**6 CONCLUSION**

- 6.1 The photographs taken and the log kept by the complainer clearly indicate that Mr. Penman has been conducting elements of his joinery business from his house curtilage to the detriment of the amenity enjoyed by the neighbour. He has been asked to address the issue but has chosen to deny that development has taken place. To remedy the apparent breach in planning legislation resort to enforcement action is deemed necessary.

**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/JJ/IAL

24 April 1997

Alex Anderson  
Director of Planning, Transport & Economic Development

