

## ANGUS COUNCIL

PLANNING AND TRANSPORT POLICY COMMITTEE

9 SEPTEMBER 1997

### SUBJECT: ENFORCEMENT ACTIONS ORCHARDBANK INDUSTRIAL ESTATE

REPORT BY DIRECTOR OF PLANNING, TRANSPORT & ECONOMIC DEVELOPMENT

**Abstract:** This reports presents the circumstances relative to a recommendation to take enforcement action in respect of the non-compliance with conditions imposed on a planning permission and to the unauthorised erection of an industrial unit on sites within Orchardbank Industrial Estate, Forfar.

#### 1 RECOMMENDATION

It is recommended that the Committee agree to take enforcement action against Mr. Ian Archer in respect of:-

- (a) breaches of planning conditions taking place at Unit 5, Orchardbank Industrial Estate, Forfar; and
- (b) the erection without planning permission of an industrial unit on site 9, Orchardbank Industrial Estate, Forfar.

#### 2 INTRODUCTION

- 2.1 The relevant sites lie within Orchardbank Industrial Estate and both are controlled by Mr. Ian Archer.
- 2.2 Unit 5 consists of a single storey prefabricated building which is divided into two parts. Access to each is by large manually operated roller shutter doors on the northern elevation. Internally there are separate shot blasting and paint spraying areas with associated extraction and ventilation systems. A door on the southern elevation of the building also gives access to the paint spraying area. A small office is centrally located and attached to the northern elevation of the building. Access to the paint spraying area can also be taken from the office. The rear (south) of the building sits close to the site boundary where a compressor is located. A yard area is situated to the north of the building. Vehicular access is taken into the yard from the western boundary. The eastern boundary is adjacent to a lane which gives access to a number of residential properties.
- 2.3 Site 9 is located on the north-western boundary of the Estate. It has not hitherto been utilised for any industrial purpose.

### **3 CASE HISTORY**

- 3.1 Following complaints regarding his operations at Unit 5, Mr. Archer made a retrospective application for planning permission. This was granted in respect of a change of use from car sales to shot blasting and paint spraying at Unit 5, Orchardbank Industrial Estate, Forfar, subject to conditions, on 12 September 1995. Planning permission number 01/95/1306 refers.
- 3.2 Following the grant of the permission complaints were received to the effect that Mr. Archer was breaching two of the 10 conditions imposed. These (Conditions 1 and 8) related to the hours of operation and the noise levels emanating from the premises. As a result of these complaints Mr. Archer appealed to the Secretary of State to have the said conditions 1 and 8 discharged. On 28 May 1996 the Inquiry Reporter assigned to determine the appeal concluded that the condition restricting the hours of operation was inappropriate but considered the condition controlling noise levels was warranted to protect the amenity of nearby residents.
- 3.3 On 6 and 8 July 1996 complaints were received to the effect that paint spraying and shot blasting had taken place in the yard area. Conditions 2 and 6 of the permission require that paint spraying and shot blasting operations are undertaken within the building and that the entrance doors remain closed throughout. On 9 July 1996 a letter was sent to Mr. Archer advising him that a serious view was being taken on the breaches of conditions and that any repetition would result in a report being passed to the Committee with a view to initiating an enforcement action.
- 3.4 On 8 July 1997 a complaint was received to the effect that paint spraying operations had taken place in the yard area for much of the day. A similar complaint was made on 11 July 1997. On the morning of 7 August 1997 it was noticed that paint spraying was taking place within the building but with the door open. During that same evening shot blasting was carried out in the yard area. On the evening of 9 August 1997 spray painting took place in the yard.
- 3.5 In May 1997 it was noted that Mr. Archer was erecting a large industrial unit on site 9 of the Estate. He was advised that there was no record of a planning consent being granted in respect of the development and urged to make a retrospective application as soon as possible. At the time he made it clear he was hoping to vacate Unit 5 in the near future and transfer his operation to the building under construction.
- 3.6 On 14 July 1997 a letter was sent to Mr. Archer regarding the complaint made on 8 July 1997 and the unauthorised development taking place on site 9. He was invited to comment on the former and urgently address the latter. To date he has done neither.

### **4 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications.

**5 CONSULTATION**

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

**6 CONCLUSION**

- 6.1 The Committee are asked to sanction the service of a breach of condition notice to secure compliance with the conditions imposed on the permission relating to Unit 5 and the service of an enforcement notice in respect of the unauthorised development taking place on site 9 should Mr. Archer fail to submit a valid planning application.

**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/JS/KW  
2 September 1997

Alex Anderson  
Director of Planning, Transport & Economic Development

