
NORTH AYRSHIRE COUNCIL

14 March 2018

Planning Committee

Title: **Notice under Section of 145 of the Town and Country ,
KA24Planning (Scotland) Act 1997: 67 Sharon Street, Dalry,
KA24 5DT**

Purpose: To seek approval to serve a Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with a condition attached to planning permission (ref: 16/00488/PP)

Recommendation: That the Committee grants authority for the service of a Notice under Section of 145 of the Town and Country Planning (Scotland) Act 1997 requiring compliance with a condition attached to planning permission (ref: 16/00488/PP)

1. Executive Summary

- 1.1 Planning permission was granted on 23 June 2016 (ref: 16/00488/PP) for the demolition of a dwellinghouse, including boundary walls to the front and rear. The permission was granted subject to two conditions. Condition 2 requiring screen fencing around the site frontages in the interest of visual amenity.
- 1.2 The site is within a residential area as identified within the Adopted Local Development Plan (LDP). Adjacent to the site on the south side of Sharon Street is a mix of residential properties, including 2 storey traditional properties and a 3 storey flatted development which was erected approx. 20 years ago. Planning permission in principle (ref. 13/00682/PPP) was approved in January 2014 for the erection of residential development which included the demolition of 67 Sharon Street. The consent has since expired and there has been no further applications.

2. Background

- 2.1 The following condition attached to planning permission dated 23 June 2016 (ref: 16/00488/PP) has not been complied with and is therefore a breach.

Condition 2 - That following the demolition of the house, the site shall be fully screened along Sharon Street and Wee James Street frontages by 2m high timber screen fencing, the design details of which shall be submitted for the written approval of North Ayrshire Council as Planning Authority prior to the commencement of the works hereby approved.

Thereafter the fence shall be retained in a satisfactory condition until such time as the site is redeveloped, all to the satisfaction of North Ayrshire Council as Planning Authority.

Designs details of the fence were not submitted and a timber screen fencing has not been erected.

- 2.2 The Council became aware that the dwellinghouse had been demolished in November 2017 and following inspection, most recently, February 2018, revealed that Condition 2 had not been complied with. The site has been enclosed by heras fencing and not timber screen fencing and the design details of the fencing were not submitted to the Council for consideration and approval. The owner was written to on two occasions in January, with no response. The owner was again written to in February and advised that it was now the Council's intention to seek authority for the issue of a Breach of Condition Notice. The owner responded by confirming that it was his intention to comply with the condition when the site is cleared and if the funds are available.
- 2.3 For a condition to be immune from planning control, it has to have been in breach for at least 10 consecutive years. The relevant permission was granted 23 June 2016 (ref: 16/00488/PP) and the condition has been in breach for approximately 4 months.
- 2.4 Whilst Condition 2 required that the design details of the fencing should be submitted to the Council for approval prior to the demolition of the dwellinghouse, given the dwellinghouse has already been demolished, the Condition Notice would require full compliance of the condition, including design details to be approved. There is no right of appeal against a Breach of Condition Notice. Anyone responsible for not complying with a Breach of Condition Notice is guilty of an offence, which can be reported to the Procurator Fiscal.

3. Proposals

- 3.1 In the interest of amenity, it is proposed to issue a Breach of Condition Notice requiring the following action, in respect of Condition 2 of the planning permission dated 23 June 2016 (ref: 16/00488/PP);
 - (i) Submit for the written approval of North Ayrshire Council as Planning Authority, design details of the 2m high screen fencing.
 - (ii) Erect the screen fencing as may be approved, along Sharon Street and Wee James Street.
- 3.2 It is proposed that the compliance period be 4 weeks for the submission of the design details and 6 weeks for the erection of the fencing from the date of issue, which will allow sufficient time for the works to be carried out.

4. Implications

Financial:	The service of the Notice has no financial implications outwith normal budgetary provisions.
Human Resources:	N/A
Legal:	The proposed Breach of Condition Notice is in accordance with Statutory Regulations. Non-compliance with such a Notice is an offence and the Council as Planning Authority, could report such an offence to the Procurator Fiscal.
Equality:	N/A
Environmental & Sustainability:	N/A
Key Priorities:	The proposed Breach of Condition Notice supports the Council Plan priority – “Protecting and enhancing the environment for future generations.”
Community Benefits:	N/A

5. Consultation

- 5.1 Finance and Corporate Support has been advised of the report in terms of its budgetary provision.



KAREN YEOMANS
Executive Director (Economy and Communities)

Reference: 18/00024/NONCOM

For further information please contact **Fiona Knighton** on **01294 324313**.

Background Papers

N/A

Appendix 1 – Location Plan

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