

REPORT TO: PLANNING COMMITTEE – 19 FEBRUARY 2018

REPORT ON: REQUEST FOR DIRECT ACTION TO REMOVE CUT DOWN TREES/SHRUBS AND DEAD VEGETATION LEFT ON SITE AT LAND AT AND AROUND BALMOSSIE PUMPING STATION, WYVIS ROAD, BROUGHTY FERRY, DUNDEE

REPORT BY: EXECUTIVE DIRECTOR OF CITY DEVELOPMENT

REPORT NO: 38-2018

1 PURPOSE OF REPORT

- 1.1 This report seeks authority to take appropriate action to seek compliance with an Amenity Notice at Land at and around Balmossie Pumping Station, Wyvis Road, Broughty Ferry, Dundee (as shown in Appendix 1 Figure 1).

2 RECOMMENDATION

- 2.1 It is recommended that the Committee authorise direct action under the terms of Section 135 of the Town and Country Planning (Scotland) Act 1997 as amended to allow the Council to enter onto land at and around Balmossie Pumping Station, Broughty Ferry, Dundee and take the necessary steps to comply with the terms of the Amenity Notice, following the non-compliance of its terms by the landowner.
- 2.2 Thereafter, it is recommended that Committee authorise the Executive Director of City Development to recover any expense reasonably incurred by the Council taking such action from the landowners.

3 FINANCIAL IMPLICATIONS

- 3.1 An estimate for removing the cut down trees/shrubs and dead vegetation is £840.00 plus VAT.
- 3.2 The costs can initially be met from the City Development Revenue Budget 2017/2018. The Council will seek to recover the cost from the landowner.

4 BACKGROUND

- 4.1 An Amenity Notice requiring the removal of cut down trees, shrubs and dead vegetation from the site was served on the owner of the land under section 179 of the Town and Country Planning (Scotland) Act 1997 (as amended). The notice was served on the owner of the land after the Council received complaints over the neglected condition of the land and the amenity of the area surrounding the land is adversely affected by the neglected condition (as shown in Appendix 1 Figure 2).
- 4.2 The Amenity Notice took effect on 23 November 2017 and allowed 21 days to comply with the terms of the Notice. No work has been carried out on the land in order to tidy the area up. The amenity Notice has therefore not been complied with. The Notice has not been withdrawn by the Council and is still legally binding.
- 4.3 The only option available to the Council is to take direct action, using the Council's powers under Section 135 of the Town and Country Planning (Scotland) Act 1997 as amended to enter the land, remove the cut down trees/shrubs and dead vegetation and recover the costs from the landowner. Failure to comply with an Amenity Notice is not declared to be an offence. Therefore this issue can't be reported to the Procurator Fiscal or a fixed penalty notice issued.

- 4.4 In carrying out direct action, the Council will act in accordance with the advice and guidance contained in the Scottish Governments Circular 10/2009 "Planning Enforcement".
- 4.5 An agreement has been reached with Neighbourhood Services to enter the land and remove the cut down trees/shrubs and dead vegetation.
- 4.6 If successful in obtaining permission to take direct action, it is intended to take action within 30 days and it is estimated that the work would take 1 day to complete with 3 staff allocated.
- 4.7 No special powers of entry will be required, as there is provision within Section 135 of the Act to allow any officer duly authorised in writing by the Planning Authority to enter land to execute the necessary steps.

5 POLICY IMPLICATIONS

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

6 CONSULTATIONS

- 6.1 All members of the Council Management Team have been consulted and are in agreement with the contents of this report.

7 BACKGROUND PAPERS

- 7.1 There are no background papers of relevance to this report.

Mike Galloway
Executive Director of City Development

Gregor Hamilton
Head of Planning & Economic Development

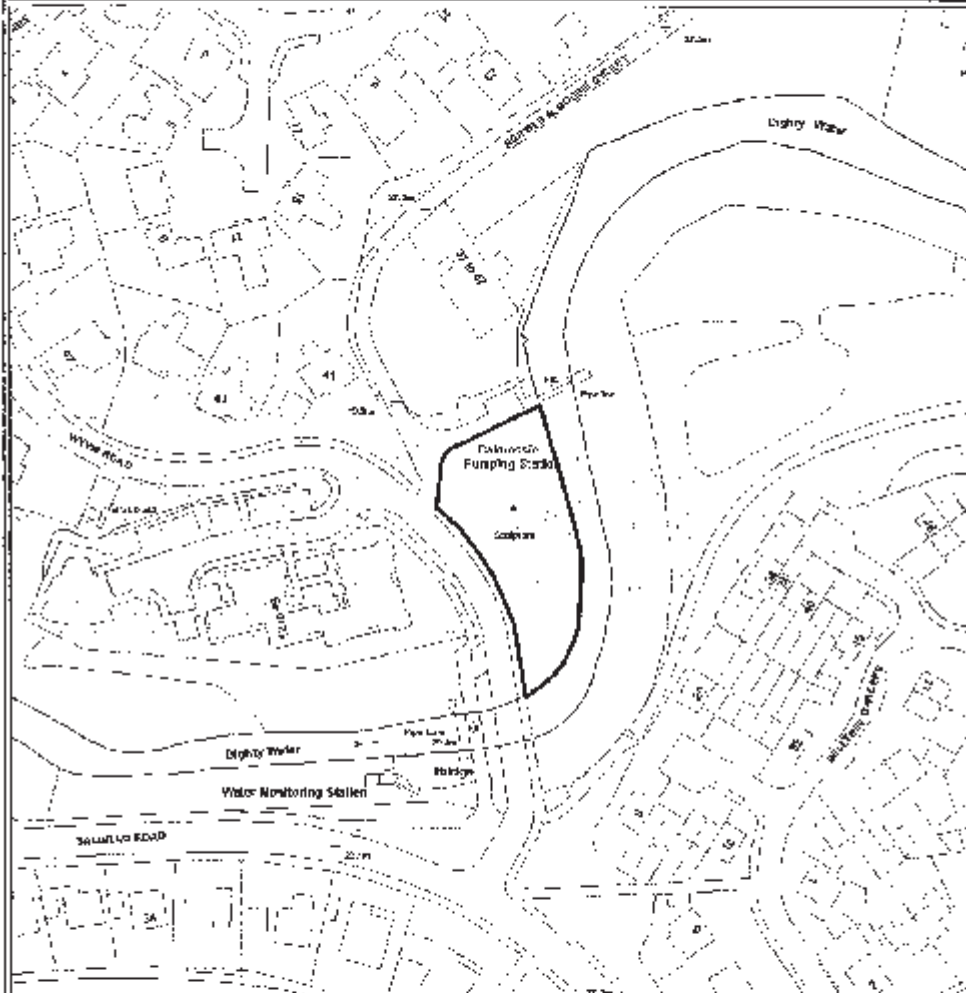
GH/GK/EC

2 February 2018

Dundee City Council
Dundee House
Dundee

Amenity Notice

17/00088/LAND



Organisation Dundee City Council
Department City Development
Subject Edinburgh Pumping Station, Wyvie Road
Date Dundee 25th October 2017

This is the plan referred to in the foregoing Amenity Notice of even date herewith.



Reproduced by permission of Ordnance Survey on behalf of HMISO. © Crown Copyright and database right 2017. All Rights Reserved. Ordnance Survey Licence number 1000293071.

Department: City Development

Originator: Mark Conroy

Created on: 06/10/2016



Scale - 1:1,250













