

REPORT TO: DEVELOPMENT QUALITY COMMITTEE – 27 AUGUST 2001

**REPORT ON: REQUEST FOR DIRECT ACTION - OPEN LAND –
ELMWOOD ROAD/CHARLESTON DRIVE, DUNDEE**

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 507-2001

1 PURPOSE OF REPORT

- 1.1 This report seeks the agreement of members to the Director of Planning and Transportation and Director of Support Services taking appropriate action to seek compliance with a Wasteland Notice. The site is the open ground west of Elmwood Road and south of Charleston Drive, Dundee. The owner of the land has allowed it to deteriorate to the extent that the neglect has resulted in the land being a serious injury to the amenity of neighbouring landowners.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Committee approve action under the terms of Section 135 of the Town and Country Planning (Scotland) Act 1997, to allow the Council to enter onto the land at Elmwood Road/Charleston Drive, Dundee, and take the necessary steps to comply with the Wasteland Notice, following the non-compliance with its terms by the landowner or lessee and to recover from the landowner any expenses reasonably incurred.
- 2.2 It is recommended that authorisation be given to the Planning and Transportation Department to enter onto the land concerned and execute the necessary works to seek compliance with the Wasteland Notice.

3 FINANCIAL IMPLICATIONS

- 3.1 The estimated cost of tidying the land is approximately £200.00 which is recoverable from the land owner. The costs can initially be met within the Planning and Transportation Revenue Budget year 2001/2002.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 There are no Local Agenda 21 implications.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 There are no equal opportunities implications.

6 BACKGROUND

- 6.1 The site concerned is open ground west of Elmwood Road and south of Charleston Drive, Dundee. The enforcement action was initiated when the Council received a complaint about the condition of the land from the local elected member on behalf of numerous constituents who own properties adjacent to the land in question. Protracted discussions with adjoining shopkeepers, including

Mr Mohammed the landowner, initially proved unsuccessful in establishing a landowner. Through further legal investigation, it was established that Mr Mohammed, one of the adjoining shop owners, did indeed own the land in question.

- 6.2 The owner was served with a Wasteland Notice in terms of Section 179 of the Town & Country Planning (Scotland) Act 1997 on 24 May 2001. The notice came into effect on 25 June 2001. The terms of the notice required the owner to remove all domestic refuse and any other waste material from the land in question.
- 6.3 The owner was given until 25 July 2001 to comply with the Notice. This deadline was suspended when the owner attempted to lodge an appeal against the Notice. On 10 July 2001, the Scottish Executive Inquiry Reporters Unit dismissed the appeal due to failure to provide grounds and fact in support of the appeal. The new date for compliance became 9 August 2001. The works stated in the Notice have not been done and the site remains in a neglected condition.
- 6.4 The Council has two options to pursue this matter further:
 - a It could report the circumstances of the case to the Procurator Fiscal which would hopefully result in a conviction against the landowner. However, the conviction would only be for failing to comply with the Wasteland Notice and would not guarantee the removal of waste material from the site.
 - b The Council has the power in terms of Section 135 of the 1997 Act, to enter onto the land, remove the waste material and recover their costs from the landowner. It is this option that is recommended because it is expedient and expeditious to remedy this ongoing blight which is detrimental to the residential amenity of neighbours.
- 6.5 To do this the Council will act in accordance with advice and guidelines laid down within the Scottish Office Planning Advice Note PAN54 (Planning Enforcement) and the Scottish Office Circular 4/1999 (Planning Enforcement). To that end an agreement has been reached with the Environmental and Consumer Protection Department to clear the site of waste materials.
- 6.6 It is intended to undertake the works within 7 days and it is estimated that the work will take a full day to complete.
- 6.7 No special powers of entry will be requested as there is provision within Section 156 of the Act to allow any officer duly authorised in writing by the Planning Authority to enter land to execute the necessary steps.
- 6.8 It is recommended that the Council, as local Planning Authority, uses the powers vested in it by the Act to enter the land at Elmwood Road/Charleston Drive, Dundee and remove all waste materials therein and subsequently take steps as necessary to recover its costs all in accordance with the terms of this report.

7 CONSULTATIONS

- 7.1 The Chief Executive, Director of Finance, Director of Support Services and Director of Corporate Planning have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

- 8.1 Wasteland Notice Ref BW/IMcC4/5/11 served on 24 May 2001. Scottish Office Planning Advice Note PAN54 (Planning Enforcement) Scottish Office Circular 4/1999 (Planning Enforcement).

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Director of Planning & Transportation

Ian Mudie
Building Quality Manager

8 August 2001

IGSM/IAR/LC/RJ

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