

**REPORT TO: DEVELOPMENT QUALITY COMMITTEE – 30 OCTOBER 2000**

**REPORT ON: REQUEST FOR DIRECT ACTION 72 CAMPHILL ROAD,  
BROUGHTY FERRY, DUNDEE**

**REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION**

**REPORT NO: 667-2000**

## **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 an Enforcement Note. The site is the garden ground at 72 Camphill Road, Broughty Ferry, Dundee where the occupier is storing and exposing for sale second-hand motor vehicles.

## **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 land at 72 Camphill Road, Broughty Ferry, Dundee, and take the necessary steps to comply with an Enforcement Notice, following the non-compliance of its terms by the landowner and recover from the landowner or lessee any expenses reasonably incurred.
- 2.2 It is recommended to give authorisation for the Planning and Transportation to enter onto the land concerned and execute the necessary works to seek compliance with the Enforcement Notice.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 The estimated cost of removal and storage of the vehicles is approximately £1500.00. Part of the costs involved may be recoverable by the sale of the vehicles. The remainder will be obtained by pursuance, if necessary, through the courts. The costs can initially be met within the Planning and Transportation Revenue Budget year 2000/2001.

## **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 the garden ground of the property at 70 Camphill Road, known as 72 Camphill Road, Broughty ferry, Dundee. The garden ground attached to the upper floor flat of this property has been entirely turned over to a Second Hand Car dealers site with the storage and exposure for sale of up to 15 cars at any one time.

Enforcement action was initiated when it was brought to the Council's attention that the landowner was using the garden as a second-hand car sales site. An Enforcement Notice was served on 18 July 2000, under the terms of Section 127 of the Act. The Notice required the landowner to stop using the land affected for the commercial storage of and exposure for sale of motor vehicles. The reason for service of the Notice was that the unauthorised use of the garden ground was not suitable for a residential area. It disturbed the neighbours through noise, traffic movement and car parking and it was unsightly in such an area. The landowner did not appeal the terms of the Notice.

- 6.2 The owner was given until the 27 September 2000 to comply with the Notice. This has not been done and the garden ground remains full of motor vehicles, which are regularly being advertised in Trade magazines.
- 6.3 The Council has three options to pursue this matter further.
- i It could report the circumstances of the case to the Procurator Fiscal Services, which would hopefully result in a conviction against the landowner. However, the conviction would be for failing to comply with the enforcement Notice only and would not guarantee the removal of the motor vehicles.
  - ii A submission under the terms of Section 146 of the Act to the Sheriff Court seeking an Interdict could be sought, although this is at the discretion of the Court and cannot be guaranteed and indeed is not without risk to the Council.
  - iii Finally, the Authority has the power under terms of Section 135 of the Act, to enter onto the land, remove the vehicles and recover their costs from the landowner. It is this option which is recommended because it is expedient and expeditious to remove this ongoing, unauthorised activity which is detrimental to the residential amenity of neighbours.
- 6.4 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 agreement has been reached with a Private Vehicle Haulage Company. They have sufficient numbers of the appropriate vehicles to remove the cars from the site as well as sufficient space at their premises to store the vehicles removed, until such times as their disposal can be arranged.
- 6.5 If successful in obtaining permission to take Direct Action it is intended to undertake the works within 7 days and it is estimated that the work will take a full day to complete.
- 6.6 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. It has also been arranged the Officers from Tayside Police will be present on the day to ensure that no public disorder or obstruction to Council Officers takes place.
- 6.7 If the vehicles removed from the site are not claimed within 3 days of the removal, then the Council has the right to sell them and recover any expenses reasonably

incurred. If after selling the vehicles and recovering costs there is a balance of money left, then it is to be paid back to the landowner.

- 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 72 Camphill Road, Broughty Ferry, Dundee and remove the vehicles being stored therein and subsequently takes such steps as are 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 Tayside Police have been consulted and are in agreement with the contents of the report.

## **8 BACKGROUND PAPERS**

- 8.1 Planning Enforcement Notice ref DAB/LG/4/5/3/244 served on 18 July 2000. Scottish Office Planning Advice Note PAN54 (Planning Enforcement) Scottish Office Circular 4/1999 (Planning Enforcement).

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Mike Galloway  
Director of Planning & Transportation

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Ian Mudie  
Building Quality Manager

27 October 2000

IGSM/DMcL/RJ

Dundee City Council  
Tayside House  
Dundee