

**REPORT TO: DEVELOPMENT QUALITY COMMITTEE – 28 OCTOBER 2002**

**REPORT ON: REQUEST FOR DIRECT ACTION – WEST MARKETGAIT/ST DAVID'S LANE, DUNDEE**

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

**REPORT NO: 727-2002**

## **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 to take appropriate action to seek compliance with an Enforcement Notice. The site is the open piece of land at West Marketgait at its junction with St David's Lane, which is presently being used as a Public Car Park.

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Committee approves Direct Enforcement 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 subject of the Enforcement Notice and/or take the necessary steps to enforce compliance with the Enforcement Notice, following the non compliance with its terms by the landowner and lessee and recover from the landowner or lessee any expenses reasonably incurred.
- 2.2 It is recommended that the Director of Planning and Transportation be authorised to enter onto the land concerned and execute the necessary works in compliance with the Enforcement Notice.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 The estimated cost of the appropriate action is approximately £1000. The costs can initially be met within the Planning and Transportation Revenue Budget year 2002/2003. Thereafter the recovery of any outstanding costs incurred will be pursued.

## **4 LOCAL AGENDA 21 IMPLICATIONS**

- 4.1 There are no Local Agenda 21 implications.

## **5 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 There are no equal opportunity implications.

## **6 BACKGROUND**

- 6.1 The site concerned is the vacant piece of land at West Marketgait, Dundee, at its junction with St David's Lane. It formerly operated as a Night Club before a fire resulted in the demolition of the building.
- 6.2 The owner of the site, Bett Properties Limited, leased the site to Euro Car Parks Limited who commenced operating the site as a pay and display car park. This was after discussion with Officers of the Planning and Transportation Department, who advised that the use of the site as a Car Park would not be acceptable.
- 6.3 Subsequently both parties were served with an Enforcement Notice under the terms of Section 127 of the aforementioned Act. The Notice took effect on 22 August 2001, and

sought to cease the use of the site as a pay car park. The owner and lessee were given until 12 September 2001 to comply with the terms of the Enforcement Notice. This has not been done and the site remains in use as a pay and display car park.

- 6.4 In accordance with the amended Planning Enforcement Policy approved by Committee in April 2002, the circumstances of this case have been reported to the Procurator Fiscal Services. No proceedings are to be taken. Therefore the only option left to the Council is to take Direct Action.
- 6.5 In doing this the Council will be acting 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.
- 6.6 If successful in obtaining permission to take Direct Action it is intended to undertake the works within 30 days. It is estimated that the work will take one 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 West Marketgait/St David's Lane, Dundee, and cease the use of the site as a pay and display car park. It is further recommended that such steps as are necessary to recover its cost be taken, all in accordance with the terms of this report.

## **7 CONSULTATIONS**

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

## **8 BACKGROUND PAPERS**

- 8.1 Enforcement Notice Ref: GMS/FB/4/5/3/46  
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

17 October 2002

IGSM/DM/RJ