

**REPORT TO:** DEVELOPMENT MANAGEMENT COMMITTEE – 14 AUGUST 2017

**REPORT ON:** REQUEST FOR DIRECT ACTION TO REMOVE UNAUTHORISED STATIC CARAVAN, HARDSTANDING AND PROFILE METAL SHEET BOUNDARY FENCE FROM LAND AT PANMUREFIELD, NORTH BALMOSSIE STREET, BROUGHTY FERRY, DUNDEE

**REPORT BY:** EXECUTIVE DIRECTOR OF CITY DEVELOPMENT

**REPORT NO:** 262-2017

## **1 PURPOSE OF REPORT**

- 1.1 This report seeks authority to take appropriate action to seek compliance with an Enforcement Notice on Land at Panmurefield, North Balmossie Street, Broughty Ferry, Dundee.

## **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 Panmurefield, North Balmossie Street, Broughty Ferry, and take the necessary steps to comply with the terms of the Enforcement 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 an unauthorised profile metal sheet fence and hardstanding is £750. The metal sheet fencing would be stored by Council for 3 days in order to allow for them to be reclaimed by the owner.
- 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 The unauthorised use of land, caravan, hardstanding and metal sheet fence took place between September and December 2016. An Enforcement Notice requiring the removal of the caravan, hardstanding and metal sheet fence was served on the owner of the land on 7 December 2016, in accordance with Section 127 of the Town and Country Planning (Scotland) Act 1997 as amended.
- 4.2 The Enforcement Notice took effect on 11 January 2017 and allowed 180 days to comply with the terms of the Notice. The owner and/or occupier removed the caravan from the site on 29 July 2017, but at the time of writing, the metal sheet fence and hardstanding remain in situ. The Enforcement Notice has therefore not been fully complied with. The Notice has not been withdrawn by the Council and is still legally binding.
- 4.3 The Council has the following two options to pursue the matter:
- a report the matter to the Procurator Fiscal which, if pursued, may result in a conviction against the land owner. However, any conviction would be for failing to comply with the Enforcement Notice and would not guarantee the removal of the hardstanding or fence. Additionally, the Procurator Fiscal might not report on a case unless every other avenue has been explored; or

- b take direct action, using the Council's powers under Section 146 of the Town and Country Planning (Scotland) Act 1997 as amended to enter the land, remove the hardstanding and metal sheet fence and thereafter recover the costs from the landowner.
- 4.4 Option b (direct action) is recommended as the best solution available to the Council as it would have the greatest certainty of ensuring compliance with the terms of the Enforcement Notice to the satisfaction of the Council.
- 4.5 In carrying out direct action, the Council will act in accordance with the advice and guidance contained in The Scottish Government's Circular 10/2009 "Planning Enforcement".
- 4.6 An agreement has been reached with Neighbourhood Services to enter the land and remove the hardstanding and metal sheet fence. The Council would thereafter store the metal sheet fence panels for 3 days to allow the owner to reclaim them.
- 4.7 If they are not reclaimed within 3 days of their removal, the Council has the right to sell or dispose of them and recover any expenses reasonably incurred.
- 4.8 If successful in obtaining permission to take direct action, it is intended to take action within 7 days and it is estimated that the work would take one day to complete.
- 4.9 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. It is intended to undertake the works immediately and that the works will take a day to complete.
- 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.

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GH/DG/KM

28 July 2017

Dundee City Council  
Dundee House  
Dundee