



Glasgow City Council

**Wellbeing, Empowerment, Community and Citizen Engagement City
Policy Committee**

Report by Executive Director of Regeneration and the Economy

Contact: Forbes Barron/ Tony Trotter (ext: 76020)

Briefing note on the Petition “Proposed Rectification of Vandalism and Neglect Regarding Unit 1 New Albion Industrial Estate, Yoker.”

Purpose of Report:

To provide information on the Petition “Proposed Rectification of Vandalism and Neglect Regarding Unit 1 New Albion Industrial Estate, Yoker”.

Recommendation:

The Committee is requested to note the contents of the report and consider the Direct Action Powers which may be used (stemming from enforcement actions already taken), subject to cost and availability of funds from suitable sources.

1. Purpose of report

To provide information on the Petition – “Proposed Rectification of Vandalism and Neglect Regarding Unit 1 New Albion Industrial Estate, Yoker”.

2. Background

2.1 The site lies within an industrial complex in Ward 13: Garscadden/Scotstounhill on the corner of Hawick Street and Halley Street, Yoker, Glasgow. Although the site is located within an industrial estate it lies in close proximity to residential areas to the west and north of the site.

2.2 In March 2009, a planning application, 09/00614/DC for the “erection of flatted development” was submitted. This was potentially contrary to Development Policy Principle DEV3 Industry and Business of the City Plan” and as such, the application was refused in April 2010. No appeal was lodged against the decision.

- 2.3 In June 2010 a complaint was made to the planning authority (reference: 10/00388/EN) regarding the use of the same land as a car wash. As planning permission would not be granted, the Council communicated with the owner, requiring the cessation of the unauthorised use, otherwise formal enforcement action would be taken. In March 2011 it was confirmed that the car wash use had ceased operating on the site in compliance with Council instructions. As the breach of planning control was resolved, the enforcement case was closed.
- 2.4 In April 2012 a complaint was made to the planning authority (reference 12/00197/EN) regarding the unauthorised erection of metal panel fencing on the Hawick Street boundary of the site. Again the Council communicated with the owner; however all communication was unanswered and therefore no dialogue could be entered into. Given this, it was deemed necessary for the planning authority to issue a **Section 127 Enforcement Notice** under The Town and Country Planning (Scotland) Act 1997 (“the Planning Act”) which was served on all persons with a material interest on 21 September 2012. The Notice required the removal of the solid metal (panel) fencing on the Hawick Street boundary. The Notice was not appealed and remained as a blight on the land. Although the fencing remained in place, at some point since then it has collapsed and has now been completely removed, as confirmed by a site visit carried out on 19th February 2019.
- 2.5 As with any formal enforcement action (involving service of a Notice), it is worthy of note that should a Property Enquiry Certificate (PEC) be required in the event of an impending sale of the property/site, the existence of the Enforcement Notice would be revealed by the Council and could be addressed through negotiations between the prospective purchaser and property vendor.
- 2.6 In March 2014 a further complaint was made to the planning authority (reference 14/00161/EN) regarding the unauthorised use of the site for stationing of portable cabins. **A Section 33A Notice** (in relation to the Planning Act) which requires the submission of a retrospective planning application was served in September 2014 ensuring that the use as described above, would not become lawful through the passing of time. However, a retrospective application was not submitted in response. Again, the S.33A Notice constitutes an enforcement action “stopping the clock” on development from becoming immune from action over a period of time (10 years for a change of use). Formal Enforcement Notice such as this remains as a blight upon the site and will be detailed on a Property Enquiry Certificate (PEC) obtained in the event of any attempt to sell the land.
- 2.7 In May 2016 a fresh complaint was received (reference 16/00284/EN) regarding the disrepair and lack of maintenance of the site, affecting the amenity of the surrounding residential area, with the compromised security of the site encouraging vandalism to the portable buildings and causing associated anti-social behaviour issues close to nearby houses.

- 2.8 This service contacted the owner on June 2016 and again, the correspondence was not answered. The case for a **Section 179 Notice** under the Planning Act (Land Affecting Amenity) was considered to be justified and this particular Notice was duly served on 25 Aug 2016. The Notice specifically stipulated that **“all materials should be cleared off the site including portable cabins and storage units, all fencing currently lying on the ground and all other building materials”**. This action could include the large amount of used tyres contained within the portable buildings - of which there has been concern about the potential for a fire to start with potential hazardous impact on the safety and wellbeing of nearby residents. However, although this Notice has taken effect, it cannot require rebuilding of the palisade fence around the site to enclose it and thereby prevent fly tipping, as it is not a requirement of the Notice to do so. Simply put, the Council cannot exceed the terms of any Enforcement or other Notice which exists on land, despite the perceived practical benefits of securing the site with a suitable means of enclosure.
- 2.9 Again the Notice was served on the land owner at the address provided by land registry details. However the owner of that particular address confirmed that the person stated no longer resides there and has not provided a forwarding address. As the owner of the land cannot be contacted the matter could not be progressed and again and the Notice remains as a blight on the land.
- 2.10 An obvious pattern has taken place in this case where a complaint has been made to planning services, the case has been investigated, and the matter has been addressed using the current legislation in the form of formal planning enforcement notices being issued. The owner cannot be located to deal with this issue and therefore the possibility of carrying out works required in default of the Notice(s) is now the main issue under consideration within this report.

3. Consideration of further action (Direct Action)

- 3.1 Within the planning petition the impact of the unauthorised portable buildings and their dilapidated state (and further openness to vandalism), has been expressed in terms of the impact of the site on the amenity of residents but also in terms of the impact on the prices on the immediate locale. Whilst property prices are not capable of being a material planning consideration, through previous action the Council has identified that there have been unauthorised activities, portable buildings and dilapidation causing amenity concerns which *do* have a significant impact on residential amenity. Further action to resolve these issues is therefore considered to be justified.
- 3.2 There are three formal Notices which affect this land and remain as a blight upon the site in relation to any future sale. Of these Notices, only the S.179 is now relevant in terms of Direct Action with the potential for the removal of portable buildings, the used tyres within and other scrap materials from the site.

- 3.3 There is no specific budget for Direct Action within Development and Regeneration Services. Action may therefore only be possible subject to cost and availability of funds from suitable sources. Thereafter, the cost of the action could be charged to the owner and pursued by the Council's debt recovery team. Unfortunately at present there is no power to register the cost of the required action as a land charge. Therefore given the owner's past history in terms of not corresponding with the Council or appealing against official Notices, the risk of not recovering costs would seem to be high. Unfortunately legal action on the basis of the existing Notices is not a possibility that can be considered.
- 3.4 Direct Action seems to be the natural solution to this issue, albeit at the risk of incurring expenses which may not be recoverable. A technical requirement of Direct Action is also important to bear in mind in relation to the potential costs involved, which is that all items removed must be stored in a secure location to enable the rightful owner to claim them back within 3 days. Whilst unlikely that there are any "items" in their present state would be claimed and returned to the site, there is an additional cost factor to any materials/items which are required to be stored.
- 3.5 City Property have provided a quote of £4,988 for carrying out all works required by the S.179 Notice. It should be noted that due to extensive vandalism and fire damage of the derelict portable buildings, City Property's contractor cannot transport them in their current state, as they cannot warrant their structural integrity for road transportation. Therefore it is their intention to mechanically dismantle using a 360 degree excavator fitted with a mechanical grab loading the resultant debris into bulk tippers and transporting into landfill/recycling facilities. Legal advice has been sought regarding this and it has been agreed that for safety reasons there is no alternative other than by the method proposed. **On this basis, work has been instructed to take place as soon as possible.**
- 3.6 It should be noted that unless this Direct Action can be achieved, the issues presented by the dilapidated portable buildings and their contents (large amounts of used tyres etc.) may potentially compromise the safety and wellbeing of residents of the nearby residential areas concerned.

4 Policy and Resource Implications

- Financial:* Direct Action to carry out works in default of Enforcement Notices will incur financial outlay which will be referred to the Council's Debt Recovery team.
- Legal:* Compliance with Planning Legislation in carrying out Direct Action.
- Personnel:* Action to organise any Direct Action will utilise existing staff resource to coordinate work with contractor.
- Procurement:* No relevant procurement issues for action costing less than

£5,000.

Council Strategic Plan: A Well Governed City that listens and responds, the outcomes of which are open and transparent decision making and listening and responding to citizens – Priority 92

Equality Impacts: The impacts of this report in relation to the Public Sector Equalities Duty and the 14 outcomes aligned to the four improvement aims of the Council Family's Equality Outcomes for 2017 to 2021 have been considered. The report has no significant direct impact on the Council's equalities duties.

Does the proposal support the Council's Equality Outcomes 2017-22 No; not required as this is not a new strategy, policy or service.

What are the potential equality impacts as a result of this report? Not applicable

Sustainability Impacts:

Environmental: Protection of the City from unacceptable unauthorised development and or extreme disamenity.

Social: Encourages adherence with the planning system and therefore engenders respect for others through understanding of the negative impact which unauthorised development may have upon fellow citizens.

Economic: Protection of the built environment supports sustainable economic activity.

Privacy and Data Protection impacts: Where a valid enforcement complaint is received from a member of the public, wherever possible the Council will treat personal details pertaining to the complaint as confidential.

5 Recommendations

5.1 The Committee is requested to note the contents of the report and consider the Direct Action Powers which may be used (stemming from enforcement actions already taken), subject to cost and availability of funds from suitable sources.

**Briefing note summary on the Petition “Proposed Rectification of Vandalism and Neglect Regarding Unit 1 New Albion Industrial Estate, Yoker.”
7th March 2019.**

The purpose of this report is to explain the planning history of the site, with particular regard to planning enforcement actions which have resulted in disamenity to the surrounding area,

In 2010 formal enforcement action was threatened in relation to the unauthorised car wash on site, This instruction to cease was complied with and there is no current use of the site other than for the storage of portable buildings and scrap materials.

A S.127 Notice was served in 2012 in relation to metal panel fencing on the Hawick Street boundary, which although securing the site was considered unsightly and incongruous being immediately adjacent to a residential area. This fence collapsed and on 19th February 2019 it was noted that no part of it is now left in place.

The openness of the site combined with the presence of neglected portable buildings has given rise to vandalism and further deterioration. This resulted in the service of a Section 179 Amenity Notice (served in relation to the Town and Country Planning (Scotland) Act 1997). The owner did not appeal this Notice and therefore it took effect, requiring that **“all materials should be cleared off the site including portable cabins and storage units, all fencing currently lying on the ground and all other building materials”**. This action can include used tyres contained within the portable buildings, concern being expressed about the potential to set fire to portable buildings and the impact on the safety and wellbeing of nearby residents. However, the Notice cannot require rebuilding of the palisade fence around the site to prevent fly tipping, as the Notice cannot exceed its own requirements, despite any benefit of securing and enclosing the site.

Direct Action in relation to the S.179 Notice is possible; therefore DRS have explored ways of achieving this, subject to cost and availability of funds from suitable resources. An acceptable quote has been received from City Property to remove the portable buildings, any tyres inside and materials left in open view for £4,988. On this basis, work has been instructed to proceed as soon as possible. The removal of the fence from the Hawick Street boundary complies with an enforcement notice served which required its removal (and by S.179 Amenity Notice which required its removal after it had fallen). With regard to securing the site, it should be noted that in 2008 the site was completely open and free of structures including fencing and it is this state which direct action will aim to return to. It is likely that the presence of the dilapidated/destroyed portable buildings encourages vandalism and fly tipping, and if these issues are addressed the site should improve significantly.



Glasgow City Council

Development and Regeneration
231 George Street
Glasgow G1 1RX

Executive Director: Richard Brown

Reference No: 16/001284/EN

Address:

Unit 1 New Albion Estate Yoker

Scale: 1:1,250

Indicative Site Location

Ward: 13



© Crown Copyright and database right 2015. All rights reserved. OS Licence No. 100023379



Location of Site (for details refer to Report)