



To: Planning and Property Policy Board
On: 10 March 2015

Report by: Director of Development and Housing Services

Heading: 5 East Fulton Holding, Clippens Road, Linwood

1. Summary

- 1.1. The following report provides an update to members on the breach of planning control in relation to the site at 5 East Fulton Holdings, Clippens Road, Linwood. The site has been subject to unauthorised development within the designated greenbelt comprising of the siting of mobile homes, caravans and associated developments and the infilling of land with waste material.

2. Recommendations

- 2.1 It is recommended that the Board:
- (i) Note the current planning position in relation to the unauthorised development of the site at 5 East Fulton Holdings.

3. Background

- 3.1. The site is identified within the Renfrewshire Local Development Plan (LDP) as being situated within the Greenbelt where there is a general presumption against development for residential purposes unless a locational need can be established.
- 3.2. The site has been subject to unauthorised development since May 2010 when the site owner began to bring caravans and mobile homes onto the site and undertook associated works to enable the site to be used for residential purposes. The development, which has taken place, amounts to a breach of planning control.

- 3.3. To address this breach of planning control, two planning enforcement notices have been served on the owner of the site since October 2011, requiring them to cease the unauthorised use of the site for the siting of caravans/mobile homes and to remove the unauthorised development from the site including infilled waste material. The owner failed to comply with the requirements of these notices and this failure to comply was reported to the Procurator Fiscal in April 2013.
- 3.4. The Procurator Fiscal has raised proceedings against the owner of the site. The case was initially due to be heard in January 2014 but was adjourned and thereafter, subsequently, adjourned on four further occasions for procedural reasons.
- 3.5. Since the original breach of planning control, the ownership of 5 East Fulton Holdings has been divided. In January 2014 two planning applications were submitted for the site, as divided, seeking retrospective planning permission for the unauthorised development (Application Ref no: 14/0157/PP, also sought planning permission for the erection of a dwelling house). Both applications were refused in May 2014, under delegated powers, and appeals against these decisions were lodged with the Local Review Body (LRB), thereafter. At its meeting in November 2014, the LRB resolved to dismiss both reviews. In January this year, both applicants lodged an appeal to the Court of Session in relation to the validity of the decisions taken by the LRB.
- 3.6. In the meantime, a revised court date for the non compliance of the enforcement notice, was set for 18th February 2015. This has now been adjourned due to the separate matter of the legal challenges which have been lodged at the Court of Session, including against the adoption of the LDP, which members will recall has been the subject of previous updates to the board. The Sheriff presiding over the planning enforcement case has determined that the case cannot be heard until the outstanding Court of Session challenges have been concluded.

4. **Next Steps**

- 4.1. It is anticipated that the legal challenges against the adoption of LDP, and the decisions of the LRB, will be heard in the Court of Session in autumn 2015.
- 4.2. On the conclusion of the legal challenges, a diet of debate will be fixed by the Sheriff Court to argue the relevant issues before fixing a revised trial diet for the prosecution case against the non compliance of the planning enforcement notice. The Board will be provided with future updates on the progress of this case.
- 4.3. The Board will also be kept up to date with the progress on the legal challenges to the LDP and LRB through further update reports.

Implications of the Report

1. **Financial** – None
2. **HR & Organisational Development** – None
3. **Community Planning** – None
4. **Legal** - The nature of the challenges are as detailed in the report.
5. **Property/Assets** – None.
6. **Information Technology** - None
7. **Equality & Human Rights** - The report has been prepared to update members of the Board on the ongoing planning enforcement case concerning the above site. Members are not asked to assess or take a decision based on the information provided but are only asked to note the position. Therefore there is no requirement to undertake an Equality Impact Assessment at this stage.
8. **Health & Safety** – None
9. **Procurement** – None
10. **Risk** – None
11. **Privacy Impact** – None

List of Background Papers

- (a) None
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