

ENFORCEMENT REPORT

UNAUTHORISED TIPPING AND THE DERELICT CONDITION OF THE LAND, SHEFFIELD SKI VILLAGE, VALE ROAD

1. PURPOSE OF THE REPORT

The purpose of this report is to inform Board Members of (a) a breach of planning control and (b) the poor condition of the land and to make recommendations on any further action required.

2. BACKGROUND

- 2.1 The Planning Service was contacted by Kier Asset Partnership Services, (KAPS), in February 2013 about the tipping of waste material on the land around what was by then a derelict ski village site. KAPS also have other concerns about the poor condition of the site due to arson attacks, vandalism, concerns about poor security, depreciating value of the land and the long term viability of the site due to these issues.
- 2.2 The Council owns the land and leases it to a private company on a 99 year term, which has about 62 to 63 years left to run.
- 2.3 Officers from KAPS, planning enforcement and the Environment Agency, (EA), met at the site to assess and discuss the situation from all respective sides. The initial impression was excavation and demolition material consisting of subsoil, rocky material, bricks, concrete and stone had been tipped over two large areas. There was also extensive damage to buildings and there were two scrap heavy earth movers / one scrap military vehicle). The area was generally laid to waste with rubbish, tyres and broken pieces of timber building strewn around.
- 2.4 On arriving at the site for the meeting, EA officers observed and stopped a tipper lorry, at the site entrance, to question the driver. During a follow up investigation by EA officers it was revealed that the tipped material, (at least some if it), was from a residential development site in Sheffield.

- 2.5 The lessee of the ski village site is Pullan Homes (Selby) Ltd. The EA officer investigating was told by a haulage contractor employed by that company that the excavation waste has been moved from a residential development site at Daniel Hill in the city, which belongs to the company. The EA officer advises that the company has agreed to stop tipping at the ski village and subsequent monitoring shows this to be the case.
- 2.6 The ski slope has not been in use since a fire at the main building. Since that attack there have been further fires at the site since April 2011 and the facility is now almost completely destroyed, leaving the site in an extremely poor condition with vandalism an on-going problem.
- 2.7 Building Control Officers have also been involved from a public safety point of view and at the time of writing the remaining buildings are not considered dangerous in the context of the Building Regulations.
- 2.8 A Planning Contravention Notice, (PCN), dated 8th July 2013 was sent to the current leaseholder to establish facts about what had taken place, why and what the plans for the tipped waste are. A representative has met officers and discussed the site at length.
- 2.9 Over the past few months changes have occurred on site with the removal of all three scrap vehicles. Some of the earth piles also appeared to have changed in that a few piles near to the inside of the entrance gates have been removed.
3. ASSESSMENT OF THE BREACHES OF CONTROL
- 3.1 Tipping has occurred over large areas in two main places, on the site of the main building and on the car park to the north of it. These areas are marked on the attached plan as Area Y and Area X respectively. The tipped material at Area X covers approximately 2200m² and the tipped material at Y covers approximately 2400m². The land in between them is mostly clear / open.
- 3.2 The explanation given to the EA for the tipping by the lorry driver, (para.2.4), referred to the waste originating at a development site elsewhere in the city. The EA officer also advises that she was told by the lessee / occupier, that the ski village site is a temporary holding place for excavation material taken out of the Daniel Hill development site and that there is a planned use for the material elsewhere in other development sites. She also advises that the tipped material has been tested for hazardous substances and contaminants. The results are that nothing untoward or unusual was found.
- 3.3 The EA was satisfied that the lessee had full control of all the sites involved in this transfer process, (as described) and under the circumstances this satisfies the environmental control and waste

licensing aspects of this operation. It can be shown to be legitimate in the context of the environmental legislation. This means that the EA would be likely to grant a waste transfer license, however, for technical reasons they cannot issue one because the freehold owner of the site, (the Council), does not consent to waste being tipped here. The lessee has since given a different account to Council officers.

- 3.4 In response to the PCN served 8/7/13 a representative of Pullan Homes (Selby) Ltd met with officers to discuss the site. It was revealed that material had been imported from the Daniel Hill development and tipped on the site of the main building, (Area Y) for the purpose of 'capping off' the fire damaged main building. During this discussion he also stated that no other material other than that for capping off work had been taken to the site, on his instruction. He specifically said, (in response to questions), that the other material (in Area X) was not tipped there on his instruction.
- 3.5 The account offered to Council officers from the lessee, (which has direct control of the site), was that the tipping was intended purely to cap off the fire damaged main building and that is all. It was to make the area safe and then level off the material. This account differs from the one given to the EA, (waste transfer described).
- 3.6 The amount of tipping involved here in Area Y, by itself, is considered to be 'development', (as defined by s55 of the Planning Act), requiring express planning permission by way of a full planning application. The material at the site of the main building, (Y), is a significant amount. It is not levelled to tidy finish. It is left in rough undulating piles and consists of what appears to be a mix of sub-soil, rocky material and some demolition waste including brick, concrete, stone etc. Since it was tipped this material has begun to green over giving it some camouflage against the backdrop.
- 3.7 It is clearly evident that there is also a significant amount of other tipped material at Area X. It could not be determined from talks with the lessee why the material was there or where it had come from. From a visual inspection / assessment by officers it appears to be similar material as that at Area Y / former main building.
- 3.8 From a planning point of view the significant amount of tipping for any of the following reasons would be considered 'development', including (a) tipping purely for the disposal of unwanted waste, (b) tipping to facilitate significant re-contouring of site levels at the ski village, (c) temporary waste transfer holding site, (d) permanent waste transfer site, (e) tipping to cap off the fire damaged main building. Scenario (a), (c) or (d) would be considered changes of use of the land, either to a primary use in their own right or to a mixed use involving the existing leisure use. If the land was to be subdivided to make a new use in one part of it then that would also require planning permission. In any of these events a full planning application would be required.

- 3.9 The authorised use of the site is for leisure use with planning applications approved for a ski slope with associated buildings and ancillary leisure uses. There are no planning consents for any change of use or for redevelopment of the land levels / contours and there are no consents for waste transfer or tipping for any other purpose including infilling, (capping off), of any damaged building.
- 3.10 Fires have destroyed all the timber buildings on site. Some charred remains are left standing and some are broken up in piles. There is general rubbish strewn about the site, including old tyres, some which appear to have been used on site in the children's play area and some which appear to be there as a result of fly-tipping. A small amount of fly-tipping of other general waste has also taken place on the site.
- 3.11 Part of the ski village is prominent on the Sheffield skyline due to its situation on a high hill above Neepsend. It can be seen from long distances, viewed from the west, however the majority of the site, below the actual ski runs, including the buildings, the car park and the adventure playground are not so visible from outside the immediate area.
- 3.12 The areas of tipped material and the general poor condition of the site are evident however from some points along a footpath that skirts the site boundary to the south east and from the top of Vale Road to the west. Some of the tipped material can be seen from the footpath but this is a long range view only. It is partially greened over by self-set vegetation. Some of the burned out buildings and some of general rubbish / waste can be seen at long range. One other, vandalised structure one of the ski runs is visible at close range from footpath point B, (see plan).
- 3.13 There are limited views from another footpath skirting the north west boundary, (point J), however views from this footpath and mostly obscured by trees / other vegetation and the topography of the land. The attached Photo Appendix shows various views on the site from inside and outside the boundaries.
- 3.14 Now that the site is closed down the area has become quiet. The site is at the end of a 'dead end' road and as such there is virtually no vehicle traffic to that end of it. The area is a convenient spot for illegal fly-tipping. This is mostly confined to the highway Vale Road and its verges but access is possible on to the Ski Village land and it is evident that fly tipping has taken place 'on-site' and around the entrance gates to it.
- 3.15 The fly-tipping has consisted of household and commercial waste including old tyres. Regular visits to the area show that although the Council has been clearing rubbish from the highway, new fly-tipping occurs.

- 3.16 Sheffield Core Strategy Policy CS50 'Parkwood Springs and the Parkwood Landfill Site' states that, "Over the medium to long term, Parkwood Springs will be developed into a City Park. Sport and leisure uses could also be located at the Sheffield Ski Village if they are needed to support the development of sport and recreation facilities there'. Whilst this policy was written prior to the fires at the Ski Village the site is clearly intended to be a sport and recreation hub for the city and any future application for the redevelopment of the former ski village site is likely to respond to this policy intention.
- 3.17 Tipping at the Parkwood Landfill site is expected to end on 31st December 2018, as per the requirements of planning permission (05/02877/FUL), with the site being restored after this. Discussions are underway with the current operators of the site, Viridor, regarding its restoration. A key element of these discussions is the opening up of the site for public access, when it is both safe and appropriate to do so, and to open up key connections with the existing public footpath network in order to reconnect the site with the local population. In doing so, it is hoped that the more people will use the area and that there will be a greater presence around the site; this in turn will mean that the former ski village site is a more prominent feature in the landscape.
- 3.18 The supporting text to Policy CS50 is clear that open space at Parkwood Springs will be the dominant land use because of its prominence on the hillside. The policy explains that the precise means of delivery and funding for regenerating Parkwood Springs to a City Park will be worked out in a masterplan for the area. Whilst progress on a masterplan has stalled due to current funding pressures, it remains a priority. It is considered that the current unauthorised tipping comprises progress towards achieving Policy CS50 and further undermines the visual amenity of the area.

4. REPRESENTATIONS

- 4.1 Representations of a kind have been made by Kier Asset Management Partnership, concerned about immediate enforcement powers to prevent a worsening of the tipping situation, while the Council's freeholder powers were also being considered.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 171C of the Town & Country Planning Act 1990, ('the Act') provides for the service of a Planning Contravention Notice, (PCN). It requires information about the suspected breach control and property ownership. It also gives an opportunity to meet with officers to make representations. Such a meeting can be used to encourage regularisation and/or discussions about possible remedies where harm has occurred. In this case the notice was served to identify any person/s with an interest in the property for the purpose of correct service of any future enforcement notices should they be needed.

Regularisation of tipping is not the course of action being recommended but the notice can establish the reason for it. The responder to the Notice has refused to complete the PCN and return it, though enough relevant information has been obtained to be able to reach the recommendation in this report.

- 5.2 Section 171E of the Act provides for the service of a Temporary Stop Notice, (TSN), if it is expedient to require a breach of planning control to be stopped immediately. The temporary stop period lasts for 28 days to allow the Council time to decide / implement further enforcement action, if necessary. There is no right of appeal against a TSN. This power hasn't been used to date as the tipping had already stopped.
- 5.3 Section 172 of the Act provides for the service of an enforcement notice, (EN). In this case such a notice would require the remedial measures to make good any harm caused by the unauthorised tipping. This could include re-grading / redistribution of the material to blend it into the landscape or it could require its removal. The level of harm needs to be carefully considered before serving an EN.
- 5.4 If an EN was served and the removal of the material was not requested in the EN, the unauthorised tipping would then benefit from deemed planning permission at the point the (alternative) steps requested by the EN were complied with, (such as levelling or re-contouring of the material).
- 5.5 At this time an EN is not considered appropriate. The harm caused is not significant in planning terms. If a case was made for the material at X and Y causing harm, the steps required by an EN to remedy that harm would fall short of removing the material from site. However this power can be considered if the situation worsens.
- 5.6 Section 183 of the Act provides for the service of a Stop Notice in conjunction with an enforcement notice, (s172). In this case the stop notice would prohibit further unauthorised tipping. This isn't necessary at this time because the tipping has stopped.
- 5.7 Section 187B of the Act allows the Planning Authority to apply to the Sheffield County Court to restrain a breach of planning control. In this case an injunction would be a last resort if a stop notice was ignored. Injunctive action would be a quicker way to stop further unauthorised tipping, (than by prosecution for non-compliance with the stop notice).
- 5.8 Section 215 of the Act provides for the service of a notice requiring the proper maintenance of the land. In this case it is recommended that it is used to require proper maintenance of the property visible from public areas. This could include clearing away of derelict and fire damage buildings, chattels, burnt out vehicles, general rubbish and waste and it could be used to tidy up uneven mounds of tipped

material. It could also require the removal of any of the tipped material considered to cause visual harm to the amenity of the neighbourhood.

6. EQUAL OPPORTUNITIES

- 6.1 There are no equal opportunity implications arising from the recommendations in this report.

7. FINANCIAL IMPLICATIONS

- 7.1 Where an enforcement notice (EN) and stop notice, under section 183, is served compensation may be payable, following appeal, in respect of a stopped activity only if:

- (a) the EN is quashed on grounds other than the granting of planning permission,
- (b) the EN is varied so that matters alleged to constitute a breach of control cease to include an activity stopped by the notice,
- (c) the EN is withdrawn by the Council otherwise than in consequence with the grant of planning permission by the Council for the development to which the notice relates; or
- (d) the stop notice is withdrawn

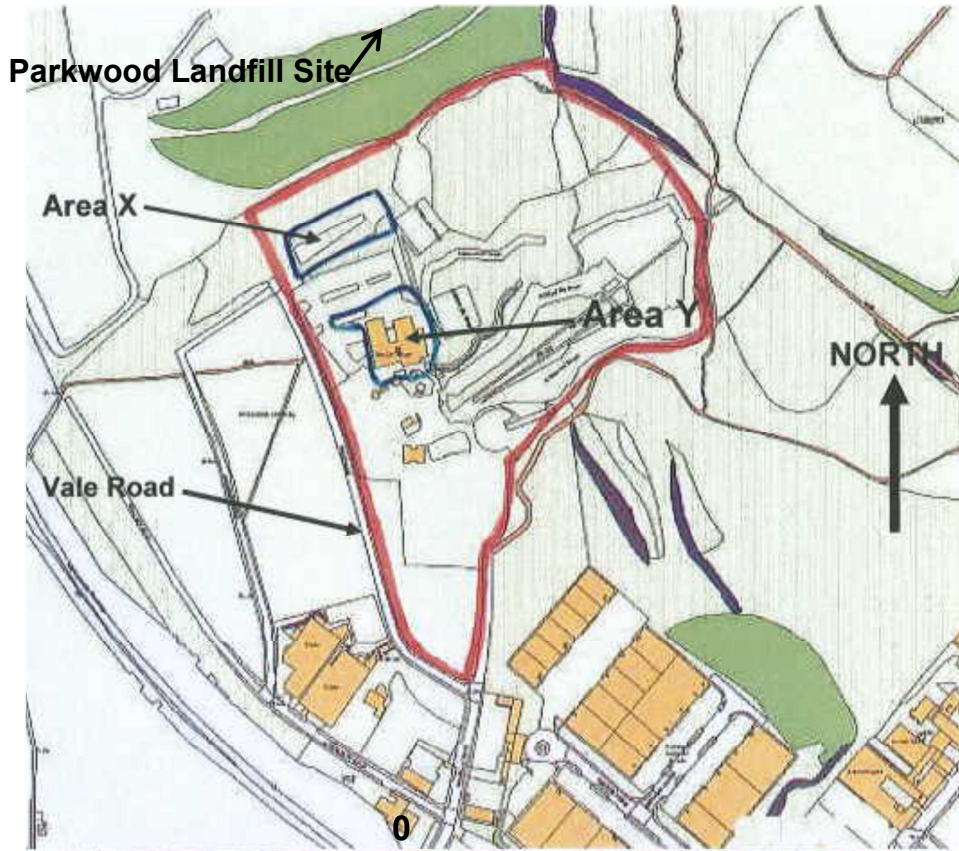
- 7.2 If in the unlikely event compensation is paid, that would be met from the planning revenue budget.

8. RECOMMENDATION

- 8.1 (a) That the Assistant Chief Executive of Legal and Governance be authorised to take any appropriate action including enforcement action, the service of a stop notice, the institution of legal proceedings and injunctive action if necessary to (i) cease any further unauthorised tipping of waste material and (ii) to remove any unauthorised tipped material and (iii) to remedy harm caused by the poor condition of the land, buildings and structures to the visual amenity of the area.

- (b) For the Head of Planning, in consultation with the Chair of the Committee, to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

SITE PLAN
(to be read with the PHOTO APPENDIX)



Maria Duffy
Interim Head of Planning

18 October 2013