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## NORTH AYRSHIRE COUNCIL

28<sup>th</sup> April 2021

### Planning Committee

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**Title:** Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997: Kirkleegreen Reservoir, Beith

**Purpose:** To seek authority to serve a notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 requiring the clearance of all fly-tipped materials on the land for the abatement of the adverse impacts on the amenity of the local area

**Recommendation:** Agree that authority be given to serve a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 to improve and safeguard the amenity of the area

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#### 1. Executive Summary

- 1.1 An area of land beside the public road adjacent to Kirkleegreen Reservoir near Beith has been blighted by fly-tipping incidents involving a variety of construction waste and other bulky items such as scrap metal.
- 1.2 The land is privately owned. Contact has been made with the owner to request the removal of all waste materials from the land and their disposal to a licensed waste or recycling facility.
- 1.3 To date, the land has not been satisfactorily cleared of the waste and its condition is harming the amenity of the rural area at Kirkleegreen Reservoir.

#### 2. Background

- 2.1 A report regarding fly-tipping on privately owned land adjacent to Kirkleegreen Reservoir near Beith was received by Planning Services during late February 2021. The matter was also reported to the Council's Fly Tipping Officer, Environmental Health and SEPA. The extent of the fly-tipping was noted as being considerable.
- 2.2 Since the fly-tipping had occurred on privately owned land, the Council was unable to remove the waste materials, in line with Council policy. Following preliminary enquiries about the circumstances with the Fly Tipping Officer, Planning Services raised the matter directly with the landowner.

- 2.3 In response to the initial request to clear the land, the landowner agreed to remove the fly-tipped materials on 10th March 2021 and to erect barriers to deter further attempts at illegal waste dumping at Kirkleegreen. The landowner highlighted that there had been similar occurrences in the past involving bulky items and building materials being dumped near the public road at Kirkleegreen.
- 2.4 However, despite the landowner having undertaken a clean-up of one area of ground at Kirkleegreen on 10th March, it was reported to Planning Services on 11th March that the materials had not been removed off the site to an appropriate waste disposal facility, as had been requested. The waste materials had, in fact, simply been moved to another part of the land at Kirkleegreen. Additional piles of waste materials were also identified by the Council's Fly Tipping Officer on 12<sup>th</sup> March 2021. It was also noted that a series of metal posts had been erected by the owner alongside the road verge to restrict further vehicular access onto the land. Despite this, a further complaint was made on 30<sup>th</sup> March 2021 following another fly tipping incident.
- 2.5 The waste dumped at Kirkleegreen consists of building materials, such as rubble, as well as other bulky items such as scrap metal and furniture. There is considerable evidence of waste materials having been set on fire, which has left parts of the ground scorched and covered in ash and metal wire.
- 2.6 Overall, the condition of the land is unsatisfactory, and the presence of waste materials are harmful to the amenity of the rural setting of Kirkleegreen Reservoir, which is popular local beauty spot.

### **3. Proposals**

- 3.1 It is recommended that a Notice under Section 179 of the Town and Country Planning (Scotland) Act 1997 (as amended) is served on the landowner to require:
1. The removal of all waste materials from the land at Kirkleegreen Reservoir to a licensed waste disposal or recycling facility.
  2. The undertaking of measures to safeguard the land against further fly-tipping, so far as practicable.
  3. Improved maintenance of the land, to include regular checks for waste dumping and its prompt removal should it occur.
- 3.2 The timescale for undertaking such works should be no greater than 6 weeks from the date of the notice.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 Should any requirement of the Notice not be complied with following expiry of the compliance period, the Council as planning authority may enter the land and carry out such steps to achieve compliance. The Council may then seek to recover from the person(s) who was the then owner (or lessee) any expenses reasonably incurred during the carrying out of these works.

## **Human Resources**

4.2 None.

## **Legal**

4.3 The proposed Amenity Notice would be served in accordance with statutory procedures.

## **Equality/Socio-economic**

4.4 None.

## **Environmental and Sustainability**

4.5 The proposed Amenity Notice would support the improvement of an area of rural land at Kirkleegreen Reservoir near Beith which has been adversely affected by fly-tipping incidents.

## **Key Priorities**

4.6 The proposed Amenity Notice would support the Council Plan priority: “Vibrant, welcoming and attractive places”

## **Community Wealth Building**

4.7 Any direct action taken under the Planning Acts can support progressive procurement.

## **5. Consultation**

5.1 Finance has been advised of the report in terms of its budgetary provision.

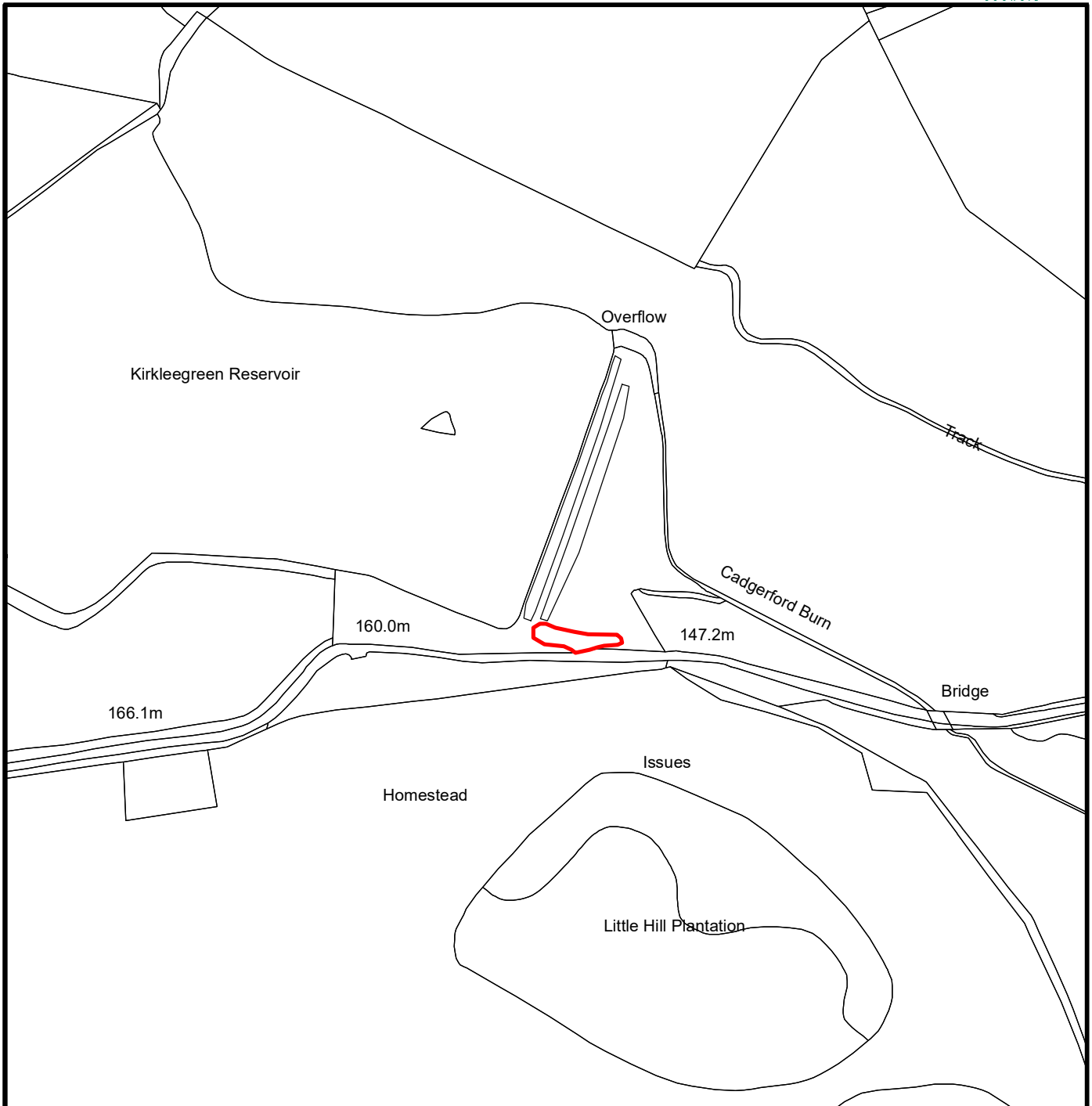
JAMES MILLER  
Chief Planning Officer

For further information please contact **Mr A. Hume, Senior Development Management Officer**, on **01294 324318**.

## **Background Papers**

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Notice under Section 179 of the Town and Country  
Planning (Scotland) Act 1997:  
Kirkleegreen Reservoir, Beith



1:2,500

0 30 60 120 Metres