

Name of meeting: Cabinet
Date: 20th September 2016

Title of report: Abandoned Waste Management Site, the Scotland Yard, Lockwood, Huddersfield

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Yes – The Chair of Overview & Scrutiny Management Committee has been advised of the addition to the Forward Plan of an urgent entry in relation to this issue.
The Decision - Is it eligible for “call in” by Scrutiny?	No The Chair of Overview & Scrutiny Management Committee waived the right to call in due to the need for urgent action to be taken to remove waste from the site.
Date signed off by Director & name Is it also signed off by the Director of Resources? Is it also signed off by the Assistant Director - Legal Governance and Monitoring?	Jacqui Gedman David Smith - 12.09.16 Julie Muscroft - 12 .09.16
Cabinet member portfolio	Cllr Naheed Mather - Housing and Enforcement Management

Electoral wards affected: Newsome, Greenhead, Crosland Moor and Netherton

Ward councillors consulted: None

Public Report with private appendix

There will be an appendix to this report that Councillors will be required to consider prior to coming to a decision on this matter which contains confidential information and is recommended to be taken in Private because the information contained in it is considered to be exempt information under Part 1 of Schedule 12A of the Local Government Act 1972, as amended by

the Local Government (Access to Information) (Variation) Order 2006, as it contains:-

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

It is considered that it would not be in the public interest to disclose the information contained in the report as disclosure could potentially adversely affect overall value for money, could compromise the commercial confidentiality of organisations and may disclose the contractual terms and impact on potential legal action to be taken in relation to activities that have taken place at the site, which is considered to outweigh the public interest in disclosing information including, greater accountability, transparency in spending public money and openness in council decision-making.

1. Purpose of report

To update the cabinet on the consequences of the abandonment of the waste site and subsequent sale and liquidation of various companies, followed by the outbreak of a deep seated fire which have left the Council in a position of incurring significant costs in returning the site to a safe and legal position through no fault or inaction on the Council's part

Cabinet are asked to note the actions taken so far by the Assistant Director of Place in relation to this matter to mitigate the risks and liabilities described in the public and private reports and to confirm and endorse those actions

In order to mitigate the risk and liabilities contained within this report and private appendices Cabinet are also asked:

To delegate authority to the Assistant Directors for Place, and the Assistant Director, Legal Governance and Monitoring to take all reasonable and necessary steps as highlighted in this report and the private appendices to ensure the safe removal of the waste from the land and to negotiate and/or enter into suitable arrangements to do this using existing call off contracts where appropriate and in accordance with relevant contract and financial procedure rules.

To approve spending up to the values as described in the report for clearance of the land before a further cabinet approval is required.

To note the risks involved in the project and the potential cost and time implications associated with these.

To delegate authority to the Assistant Directors for Place and the Assistant Director, Legal Governance and Monitoring to take appropriate action(s) to

recover the costs of clearance of the land from appropriate responsible parties.

It should also be noted that it is intended that this cost will come from the Organisational Risk Reserve.

2. Key points

As Cabinet will be aware there has been significant press reportage of on-going fire and environmental issues at the Scotland Yard, Lockwood, Waste Management site.

History

The blue site (**Appendix 1**) received planning permission in 1997 to operate as a waste transfer station. There were conditions placed on the permission, namely:

- That any transfer of waste was to occur only inside the building on site
- Only inert builders and demolition waste was to be brought to the site
- Any waste stockpile outside was to be no more than 2.5 metres high
- And the site should only operate Mon to Sat 07:30 to 18:00, with no workings on Sundays or bank holidays

The site was issued with a permit to operate as a waste transfer station by the Environment Agency in 1999 and was operated initially by Huddersfield Skip Services Limited. (**Appendix 2**) – photographs of Hunters site, prior to illegal activity and also photographs of the current condition.

The permit was varied in 2005 by the Environment Agency. The permit conditions differ with the planning permission in that it allowed:

A maximum of 70 tonnes of non-hazardous waste could be stored on site as long as it was in a roofed area or bay, and

A maximum of 500 tonnes of inert waste could be stored outdoors on site.

In 2013 Huddersfield Skip Services Limited sublet the blue site to Sam Hunter and the Environment Agency transferred the permit to the name of his company, Hunter Group Yorkshire Limited.

At that time the yellow site (**Appendix 1**) was unoccupied, however sometime in 2013 the land was leased from Gerald McCullagh by another of Sam Hunters companies, Sam H Services Limited. Treated waste, called fines, began to be deposited on the yellow site despite it not having planning permission for this.

An exemption to allow the waste to be deposited was registered with the Environment Agency. The exemption was self-registered by the company by simply filling in an on line form but was not valid for the waste they were depositing. The yellow site has never had a permit or planning to operate as a

waste transfer station. The amount of waste on the blue site also began to increase well above the amounts allowed on the Environment Agency permit.

This group of companies had been broadly compliant with all relevant planning, permits and legislation until last year when there was a rapid decline in their operations. Problems reported are:

- Noise from the site during the day for example reversing alarms etc.
- Noise from early morning and late working
- Odour from storage of waste
- Litter escaping from the site
- Using land which has no planning permission (part of their site)
- Storing waste which undermines structural walls
- Storing vehicles and skips on public bridleway
- Use of a public bridleway for site activities, vehicle movements etc.
- Storage of HGVs overnight on the public highway
- Non-compliance with Environmental Permit
- Providing skips to customers without permits
- Not removing skips following being used by customers

The enforcement of the site and the problems they cause is complicated as the site is regulated under a number of legislative regimes and by a number of enforcement bodies. These bodies are:

- Kirklees Environmental Health (noise)
- Kirklees Planning (early morning working, planning issues)
- Kirklees Streetscene Action Team (Skips and litter)
- Environment Agency (odour, Environmental Permit issues)
- Health and Safety Executive (Structural failures and transport on bridleway)
- Office of the Traffic Commissioner (HGV Licensing)

The above bodies have been working together to coordinate their enforcement activities to tackle the issues as and when they have occurred; the council has been the coordinating body in this. The following enforcement has already occurred:

- Company and director prosecuted for noise nuisance (Kirklees)
- Company prosecuted for skips on the highway issues (Kirklees)
- Enforcement Notices for planning breaches (Kirklees)
- Enforcement Notices for Environmental Permit breaches (EA)
- Revocation of HGV Operators Licence (Traffic)
- Enforcement Notices for Structural Health and Safety issues (HSE)

The Council itself has been leading in terms of prosecution successfully and the Council has been awarded costs, some examples include:

- Sam H Clearances Limited Co. No. 07558697 prosecuted under Section 139 Highways Act 1980 x8 offences; convicted 2 July 2014, fine £8,662.20.

- Hunter Group (Yorkshire) Limited Co. No. 07558952 prosecuted under Section 139 Highways Act 1980 x20 offences, convicted 12 Jan 2016, fine £5,220.
- Hunter Group (Yorkshire) Limited Co. No. 07558952 prosecuted under Section 80 of Environmental Protection Act 1990 x3 Offences, convicted 18 Feb 2016, Fine £3,000 plus costs and surcharge. Sam Hunter found guilty for same offence and fined same amount.

The Assistant Director, Place has already taken delegated steps under the Civil Contingencies Act to remove waste from the site to allow the Fire Brigade to gain access to the seat of the current fire. This was undertaken to reduce the risk to business, property and residents. This was carried out under authorisation from the Environment Agency, who is the regulator for the site.

All other avenues to tackle the fire had been explored and this was identified as the only viable option due to the site geography and high volume of waste on the site.

Waste was deposited on the access road to the site over the period of the 19th-21st August to assist West Yorkshire Fire and Rescue Service with access to tackle the boundary fire. Further waste may be removed as required to maximise the safety of surrounding business, property and residents as the fire continues to burn.

A further delegated decision was also taken under the Dangerous Structures Act to demolish the building on site as this had become dangerous following the original source fire and posed a risk to both the adjoining business and any persons on site such as West Yorkshire Fire and Rescue Service or those moving the waste itself.

The Environment Agency (EA) is the main regulating body for the site and this incident unfortunately demonstrates the issues that lay within the current legislative framework for the management of waste sites and the protracted powers that are available to the EA.

There has been extensive media coverage of this issue, in addition the Fire Service has taken remedial action to deal with the fire on the site. More activity is now required to remove the waste to allow the fire service to gain access to the seat of the fire and to bring the site back to a condition that satisfied the terms of the waste management certificate issued by the Environment Agency.

4. Consultees and their opinions

The Council have consulted with the following:

- Cllr Julie-Stewart Turner - Chair of Overview and Scrutiny Management Committee
- Cllr Naheed Mather, Housing and Enforcement Management
- Martin Dearnley, Head of Audit and Risk, Kirklees Council
- Environment Agency
- West Yorkshire Fire and Rescue Service
- Kirklees Cabinet members

5. Next steps

To proceed with clearing the waste from the land in accordance with Section 1 above and details as set out in the private appendix to provide regular updates to Cabinet and Ward Councillors on progress made and timescales.

Once a way forward is determined we will set up a communication plan to ensure local residents and businesses, which are currently experiencing smoke, odour nuisance and pest problems, are informed on progress on site.

It is likely that when clearance of the site does commence this will generate significant odour nuisance and complaints from residents and businesses. Environmental Health will monitor this situation and advise on mitigation measures to minimise this impact. Pest controls will also be proactively put in place for nearby businesses and households.

6. Officer recommendations and reasons

6.1 Cabinet are asked to note the actions taken so far by the Assistant Director, Place in relation to this matter to mitigate the risks and liabilities described in the public and private reports and to confirm and endorse those actions

6.2 In order to continue to mitigate the risk and liabilities contained within this report and private appendices Cabinet are asked:

1. To delegate authority to the Assistant Directors for Place, and the Assistant Director, Legal Governance and Monitoring to take all reasonable and necessary steps as highlighted in this report and the private appendices to ensure the safe removal of the waste from the land and to negotiate and/or enter into suitable arrangements to do this using existing call off contracts where appropriate and in accordance with relevant contract and financial procedure rules;
2. To approve spending up to the values as described in the report for clearance of the land before a further cabinet approval is required;

3. To note the risks involved in the project and the potential cost and time implications associated with these; and
4. To delegate authority to the Assistant Directors for Place and the Assistant Director, Legal Governance and Monitoring to take appropriate action(s) to recover the costs of clearance of the land from appropriate responsible parties.

7. Cabinet portfolio holder recommendation

Cllr Mather, Portfolio Holder for Housing and Enforcement Management supports the officer recommendations and the actions that have already been taken by the Assistant Director, Place and would like to emphasise to Cabinet that the Council has taken every step within its control to manage this situation.

Cllr Mather would ask Cabinet colleagues to support and agree to the recommendations as detailed in Section 6 above.

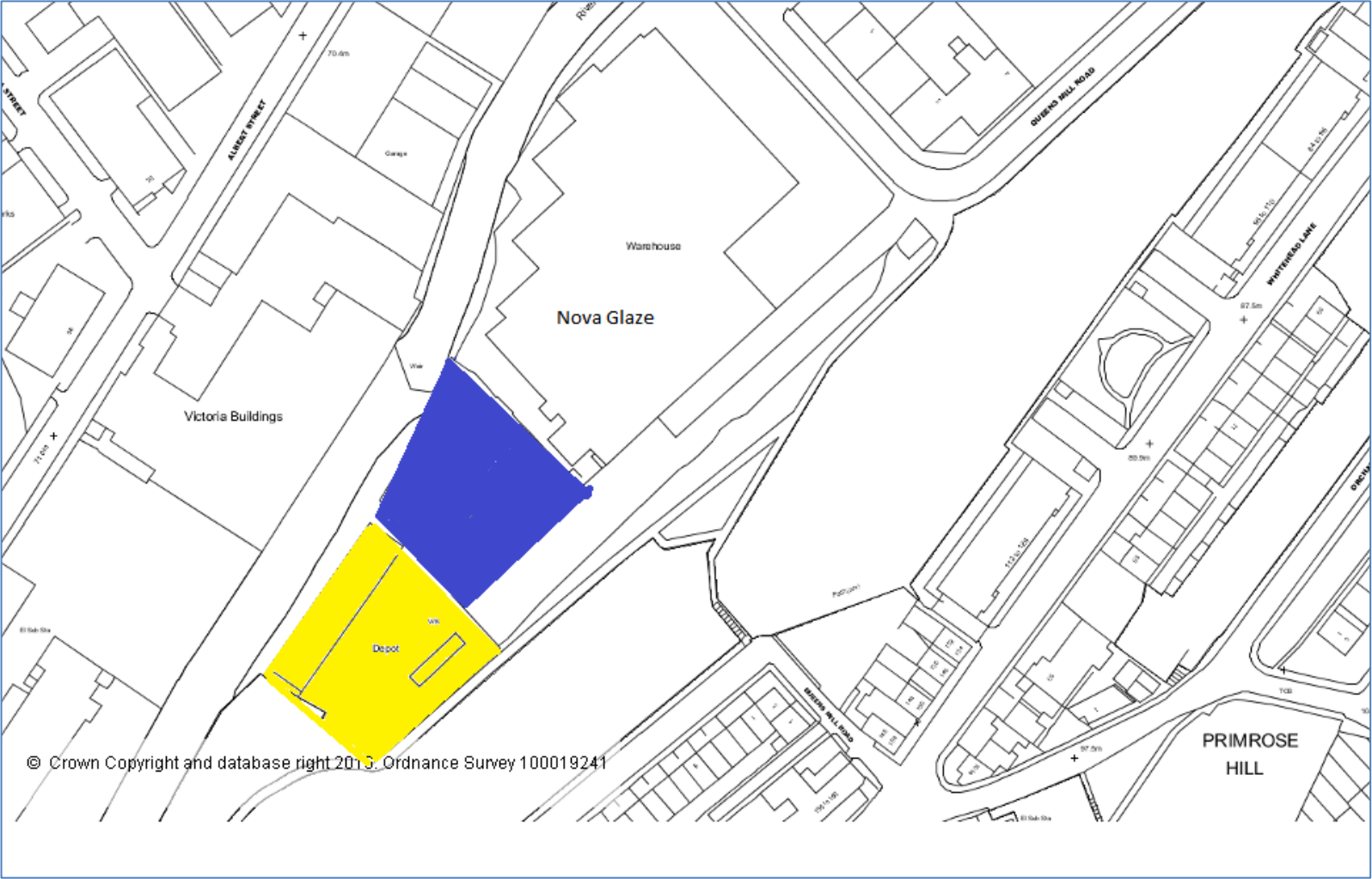
8. Contact officer and relevant papers

Joanne Bartholomew, Assistant Director, Place
Will Acornley, Head of Environment and Greenspace

9. Assistant director responsible

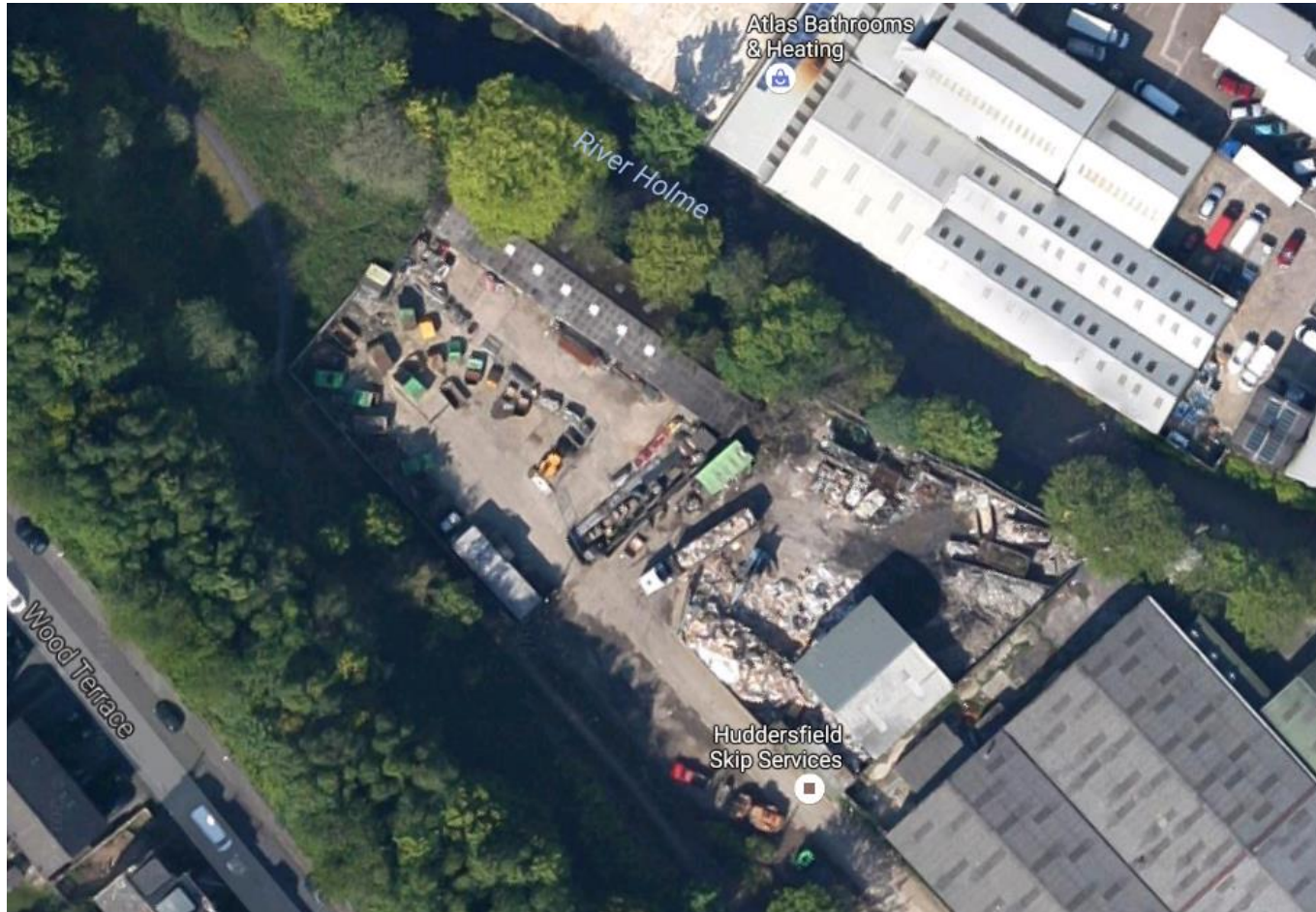
Joanne Bartholomew, Assistant Director, Place

Appendix 1: Map of the Waste Management Site, the Scotland Yard, Lockwood (Hunters Site)



Appendix 2: Photos of The Scotland Yard, Lockwood (Hunters Site)

Site prior to recent illegal activity:





The Scotland Yard, Lockwood (Hunters Site) Abandoned Waste Management site : currently:



