

**STATEMENT IN SUPPORT OF APPLICATION FOR CERTIFICATE OF EXISTING LAWFUL USE  
USE OF LAND AS CAR PARK, 88 WASHINGTON STREET, GLASGOW**

**1. Introduction**

- 1.1 The statement accompanies an application to Glasgow City Council for a Certificate of Existing Lawful Use in respect of use of a site at 88 Washington Street as a car park.
- 1.2 The site lies on the west side of Washington Street, immediately north of Broomielaw (title number GLA137631). The few surrounding businesses are commercial / light industrial / showroom and office buildings. Despite being described as the International Financial Services District (IFSD), much of the surrounding area is occupied by undeveloped gap sites, several of which operate as temporary car parks.
- 1.3 This statement describes the evidence presented with the application, and makes the case that the site has been in use as a car park continuously since 2002, and quite possibly as early as 2000.

**2. Ownership of the site**

- 2.1 The site was originally occupied by the Washington Grain Mills, owned by Allied Mills Ltd. This building had been vacant for many years, and in November 1998 was sold by Allied Mills Ltd to Stone3 Ltd, who demolished the building, cleared the site and recycled the stonework from the demolished Grain Mills.
- 2.2 On May 23<sup>rd</sup> 2001 the site was sold by Stone3 Ltd to Bellway Homes Ltd.
- 2.3 On October 10<sup>th</sup> 2007 Bellway Homes Ltd sold the land to Kenmore Broomielaw Ltd. As a result of the recession National Australia Bank, holder of a qualifying floating charge, put Kenmore Broomielaw Ltd into administration on March 4<sup>th</sup> 2010, and appointed Begbies Traynor as administrators.
- 2.4 On October 22<sup>nd</sup> 2010 the land was sold by the administrators to Broomielaw Ltd, who remain the current owners of the site.

**3. Use of the site**

- 3.1 On 2<sup>nd</sup> April 2002, during the ownership by Bellway, an agreement was signed with MCP Security Ltd to operate the site as a temporary car park for a three year period. This agreement forms document 21. According to accounts by neighbours and customers, the Heras fencing had become dilapidated and the site was attracting fly-tipping and unauthorised car parking, hence the agreement to operate the site as a temporary car park.
- 3.2 On April 10<sup>th</sup> 2005, Bellway renewed their agreement with MCP Security Ltd to operate the car park for a further three-year term (see document 22).
- 3.3 In December 2005 Bellway Homes submitted a planning application for the erection of 118 residential flats and 3 ground floor commercial units (05/04137/DC). This application was withdrawn after validation.

3. 4 Upon acquiring the site in October 2007, Kenmore Broomielaw Ltd entered into an informal arrangement with R.M. Easdale & Co. Ltd. (who occupy premises immediately opposite the site) to take over the car park. This is confirmed by the 9<sup>th</sup> January 2017 letter from R.M. Easdale & Co. Ltd., which forms Document 2.
3. 5 In June 2008, Kenmore Broomielaw Ltd submitted a planning application for the erection of offices (Class 4) plus ancillary ground floor commercial floorspace (Class 1, 2 and 3), formation of vehicular access/egress, basement car parking, ground engineering and associated public realm works (08/01731/DC). Once again, the application was withdrawn after validation.
3. 6 Throughout Kenmore Broomielaw Ltd's ownership of the site they chose to continue the informal car parking arrangement with R M Easdale & Co. Ltd., until they were put into administration. Document 1 is an extract from the Administrator's Report, the fourth page second top paragraph of which refers to the informal agreement with a neighbouring firm - R M Easdale & Co. Ltd. This report, a letter to Easdale from DLA Piper Scotland LLP (acting on behalf of the Administrators) (document 3), and Easdale's reply to DLA Piper (document 4) confirm the continuing informal car parking use on the site.
3. 7 Upon their appointment as administrators, Begbies Traynor chose to permit the continued use of the site as car park by RM Easdale & Co. Ltd whilst seeking potential purchasers for the land.
3. 8 In October 2010, the site was acquired by the current owner, Broomielaw Ltd., who chose to continue the informal car parking arrangement with RM Easdale & Co. Ltd.
3. 9 In April 2013, RM Easdale & Co. Ltd gave one month's notice that they wished to terminate their agreement when the rateable value increased.
3. 10 Broomielaw Ltd. then entered into a formal agreement with New Alba Properties Ltd to continue operation of the car park from May. The new tenant negotiated a rent-free period to get their business started and carried out some improvements to the site.
3. 11 Further clarification of the use of the site is presented by the letter from Be Commercial Consultants LLP who act for the site owners, confirming the various ownership changes and car parking use (Document 13).
3. 12 A number of local business have confirmed in writing that the land has been in use as a car park since 2001 and possibly even earlier, or in some cases for a shorter period. These are as follows:
  - Victor Paris Bathrooms (Document 5)
  - MacKenzie Menswear (Document 6)
  - St Andrews College (Document 7)
  - Biz Space – The Pentagon Centre (Document 8)
  - MW and VS Getzels Tailors (Document 9)
  - The Royal Scottish Pipe Band Association (Document 10)
  - Glasgow City Mission (Document 11)
  - Orca Design and Engineering Ltd. (Document 12)
  - R.M. Easdale & Co. Ltd (Document 13)

3. 13 We draw your attention to a number of these which give specific years that they started to use the car park, or that it has been in existence: Easdale – 2005, Glasgow City Mission – 2000, Victor Paris – 2001, RSPBA – 2001, Getzels – 2002, Orca – used since 2007, MacKenzie – 15 years ago, Biz Space – the writer used it for eight years, operation for 15 years.
3. 14 In addition, six users of the car park have provided a written statement, confirming the length of time and continuity of use of the land as a car park (documents 14 to 20).
3. 15 Finally, we enclose a petition “Land At 88 Broomielaw” (document 23) containing 48 signatures from people who have used the car park on a regular basis since 2002.

#### 4. **Other evidence**

- 4.1 We have viewed photographs which appear on the “Google Earth” website taken on various occasions in the past, and these are submitted with the application. We comment on these as follows.
- 4.2 Photo 1, date 31.12.2002: This photo was taken on Hogmanay, and shows a scattering of cars and commercial vehicles parked on the site.
- 4.3 Photo 2, date 23.4.2005: This photo was taken on a Saturday. Note that there are very few cars parked on any adjoining sites or on the streets.
- 4.4 Photo 3, date 31.12.2006: This photo was taken on Hogmanay, therefore there are no cars parked on any adjoining sites and very few on the streets. However the site appears to have a surface usable as a car park and an entrance off Washington Street.
- 4.5 Photo 4, date 31.5.2009: This photo was taken on a Sunday and there are no cars parked on any adjoining sites and very few on the streets. However it clearly shows a car park and access road layout.
- 4.6 Photo 5, date 26.7.2011: This photo was taken during the Glasgow Fair public holiday so there are very few cars parked on any adjoining sites and very few on the streets. Despite this, there are a number of cars parked on the site.
- 4.7 Photo 6, date 26.3.2012: This photo shows parking taking place on the site, though the vehicle numbers are restricted by recent groundworks undertaken by RM Easdale & Co.Ltd, which are clearly visible in the image.
- 4.8 Photo 7, date 2.4.2015: This photo shows parking taking place on the site.
- 4.9 We conclude that the photographic evidence provided by the Google Earth photographs corroborates our case that the site has been in use continuously as a car park since 2002.

#### 5. **Conclusion**

- 5.1 Section 124(3) of the Town & Country Planning (Scotland) Act confirms that a use of land achieves ‘lawful’ status after the end of a period of 10 years beginning with the date of a breach of planning control.
- 5.2 The evidence presented with this application proves that the site in question has been in use as a car park since at least 2005, and therefore no enforcement action can be taken in respect of the use.

- 5.3 Accordingly, the applicant requests the Council to issues a Certificate of Existing Lawful Use in respect of the use of the land as a car park.

#### **DOCUMENTS ACCOMPANYING THE APPLICATION**

- Document 1 Extract from the Administrator's Report which refers to the informal agreement with a neighbouring firm to use the land as a car park.
- Document 2 9th January 2017 letter from R.M. Easdale & Co. Ltd. Confirming use of the land as a car park from 2005.
- Document 3 6<sup>th</sup> July 2010 letter from DLA Piper Scotland LLP (acting on behalf of the Administrators) to R.M. Easdale & Co. Ltd.
- Document 4 8<sup>th</sup> July 2010 letter from R.M. Easdale & Co. Ltd. to DLA Piper Scotland LLP
- Document 5 letter from Victor Paris Bathrooms
- Document 6 letter from MacKenzie Menswear
- Document 7 letter from St Andrew College
- Document 8 letter from Biz Space (The Pentagon Centre)
- Document 9 letter from MW and VS Getzels Tailors
- Document 10 letter from The Royal Scottish Pipe Band Association
- Document 11 letter from Glasgow City Mission
- Document 12 letter from Orca Design and Engineering Ltd.
- Document 13 Letter from Be Commercial Consultants LLP
- Document 14 Letter from car park user 1
- Document 15 Letter from car park user 2
- Document 16 Letter from car park user 3
- Document 17 Letter from car park user 4
- Document 18 Letter from car park user 5
- Document 19 Letter from car park user 6
- Document 20 Letter from car park user 7
- Document 21 Signed agreement dated 2<sup>nd</sup> April 2002 between Bellway Homes and MCP Security Ltd. to use the site as a car park.
- Document 22 Signed agreement dated 3<sup>rd</sup> April 2005 between Bellway Homes and MCP Security Ltd. to use the site as a car park.
- Document 23 Petition signed by car park users

#### **AERIAL PHOTOGRAPHS ACCOMPANYING THE APPLICATION**

- Photograph 1 date 31.12.2002
- Photograph 2 date 23.4.2005

Photograph 3 date 31.12.2006

Photograph 4 date 31.5.2009

Photograph 5 date 26.7.2011

Photograph 6 date 26.3.2012

Photograph 7 date 2.4.2015

27<sup>th</sup> February 2017