

**PLANNING
COMMITTEE**

15th January 2014

ENFORCEMENT REPORT - CONDITION OF PROPERTY

Responsible Portfolio Holder	Councillor Greg Chance
Responsible Head of Services	Ruth Bamford
The Appendix and Site Plan to this report contain exempt information as defined in Paragraphs 1, 2 and 6 of Part 1 of Schedule 12A to the Local Government Act 1972, as amended.	

Enforcement Case Details:

Allegation: Condition of property

Location: Headless Cross, Redditch,

Ward: West Ward

The author of this report is Iain Mackay, Planning Enforcement Officer, who can be contacted on extension 3205 (email: iain.mackay@bromsgroveandredditch.gov.uk) for more information.

(See additional papers for confidential site plan)

Site description

The property is a detached two-storey house situated in a small cul-de-sac serving 4 properties situated off a Close in Headless Cross. It is a freehold property which has been in the same ownership since 1987.

Relevant site planning history

There is no planning history on the property.

Relevant site enforcement history

Enforcement issues in relation to this property date back to at least 2001. All cases relate to the same problem; the untidy condition of the land due to hoarding by the occupier.

December 2001 –

Following complaints, the occupier was threatened with enforcement action under Section 215. The owner eventually cleared the site in 2003 without the need for formal action.

February 2004 –

Following complaints, once again the occupier was threatened with enforcement action under Section 215. The owner eventually cleared the site in January 2005 again without the need for formal action.

**PLANNING
COMMITTEE**

15th January 2014

February 2005 –

The situation on site deteriorated again and once again the occupier was threatened with enforcement action under Section 215. The owner eventually cleared the site once more in March 2006 without the need for formal action.

March 2008-

Once again, the condition of the land became a source of concern and the occupier was further threatened with enforcement action under Section 215. On this occasion a Section 215 Notice was issued requiring the clearing up of the site. Eventually the threat of direct action resulted in the occupier partially clearing the site themselves in March 2011 without the need for contractors to be used.

Investigation details

July 2012 –

The condition of the frontage of the property once again became a matter of concern. The front elevation of the property had once again become littered with rubble, earth, plant pots and other detritus. It was also noted that the window frames to the front elevation were badly in need of repair works.

August 2012 –

The Enforcement Officer wrote to the occupier requesting the land be cleared up without success.

May 2013 –

Section 215 Notice issued requiring the clearance of the land and the carrying out of remedial works to the window frames. The period in which to comply was set at 3 months.

June 2013 –

Letter of intent to appeal received from owner however no written confirmation received from the Magistrates Court and a check in August 2013 with Magistrates Clerks at Redditch Magistrates Court confirmed that no appeal had been received.

December 2013 –

The condition of the property remains unchanged.

Assessment

The condition of this property is such that it is adversely affecting the amenity of the area. The issue of hoarding on the property has been a problem on and off for more than 10 years now and once again needs addressing.

Due to the age, health and other circumstances of the owners of the property, prosecution proceedings are not seen as a viable option in this case.

PLANNING COMMITTEE

15th January 2014

Even in the event of the Magistrates upholding an allegation of non-compliance with the Section 215 notice, Magistrates can only impose a financial penalty. They have no powers to order compliance with the notice.

Officers consider that in this particular case, the most appropriate course of action would be to use its powers under Section 219 of the Planning Act to undertake clean up works and recover the costs from the owner.

There are no community safety or risk implications in this report.

Financial Implications

There is a financial implication for the Council as any action to clear the property will have to come out of existing budgets. It is considered that this would be alleviated by taking the necessary action to place a charge on the land and thereafter taking legal steps to recover the costs.

The risk therefore would relate to when those costs are recovered, as this might not be for quite some time. However, they are small in value.

Legal / Risk Implications

In terms of the exempt elements of the report (confidential Appendix attached to the report and the Confidential Site Plan provided under separate cover), and the “public interest” test for exempt consideration, Officers considered that it is rarely likely to be in the public’s best interest to reveal information which is the subject of possible legal action (S.100 1 of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order, 2006) refers.

Conclusion

The condition of this property is such that action is urgently required to alleviate that harm to amenity and to neighbouring properties. As the owner cannot or will not take responsibility, the enforcement officer considers that the only way forward in this matter is to take direct action and carry out the works in default.

Recommendation

The Committee is asked to RESOLVE that:

in relation to a breach of planning control, namely the overgrown condition of the front and rear of the property, authority be delegated to the Head of Legal, Democratic & Property Services, in consultation with the Head of Planning & Regeneration, to take the following action:

- a) To appoint contractors to carry out the works specified in the Section 215 Notice to clear the site; and**

**PLANNING
COMMITTEE**

15th January 2014

- b) To instruct legal officers to take all necessary steps to secure the recovery of all costs incurred, by the placing of a charge on the property.

Attachments

Confidential Appendix – attached
Confidential Site Plan – under separate cover