

PLANNING COMMITTEE

18th September 2019

Responsible Portfolio Holder	Councillor Matthew Dormer
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 REPORT - CONDITION OF PROPERTY

Allegation; Condition of property

Location; Winyates, Redditch.

Ward; Winyates Ward.

The author of this report is Simon Jones – Principal Planning Officer, who can be contacted on 01527 548211 ext 2568 or email: simon.jones@bromsgroveandredditch.gov.uk for more information.

(see additional papers for confidential site plan)

Site Description

The property is a semi-detached two storey dwelling located within a residential area, east of Alders Drive and west of Farmoor Lane. The immediate street scene consists of four similar dwellings set back from the vehicular highway with a pedestrian footpath to the south and east.

Relevant site Planning history

The property was built *circa*. 1977 and both the freehold and lease are in the same ownership. There is no other relevant planning history

Relevant site enforcement history and investigation details:

June 2016

The condition of the property was first investigated by the planning enforcement team in June 2016 when the investigating Planning Enforcement Officer considered the condition of the property did not adversely impact the street scene so as to warrant enforcement action in the wider public interest. The investigation was closed without further action.

May 2017

A Housing Strategy and Enabling Officer from the Council's Strategic Housing team attended a joint site visit with a Planning Enforcement Officer to review the condition of the property on 8 May 2017. This revealed that in addition to the overgrown shrubbery, the condition of the integral garage door had the potential to allow anti-social behaviour or vermin/animals to enter the property and further deteriorate the condition of the dwelling.

August 2017

The Planning Enforcement team investigated ownership of the property further to establish a contact address. The Housing Strategy and Enabling Officer wrote to the

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owner on 8 August 2017 advising them that the condition of the property was not acceptable and that an agree schedule of works to remedy the front garden and unsecure condition of the property was required. The letter also warned the owner that action under Section 215 of the Town and Country Planning Act 1990 would be taken if no action was taken or agreement made to remedy the condition of the property, as observed from the street scene. No such undertaking was received.

September 2017

The case was referred to the Council's Complex Case Group in September 2017 for consideration of any other appropriate powers which could be exercised (including purchasing the property) given planning legislation restricts action to amenity issues affecting the streetscene only.

June 2018

A further site visit was conducted by the Planning Enforcement team on 8 June 2018 which revealed no action had been carried out.

May 2019

No other appropriate powers were identified by the Complex Case Group. A Notice was subsequently served on the owner of the property under Section 215 of the Town and Country Planning Act 1990.

The Section 215 Notice required the owner to take the following steps:

1. Clear the front garden area to the dwelling of weeds and prune overgrown plants and trees.
2. Clear the driveway to the front of the dwelling of weeds and overgrown plants and trees.
3. Clear the back garden area of weeds and prune overgrown plants and trees.
4. Remove from the land (as shown shaded red on the attached plan) and adjacent public highway the resultant waste matter, including any detritus uncovered as a result of the works, to an authorised place of disposal

The period for compliance set out in the notice was one month from the date the Notice took effect. The compliance date was 10 July 2019.

September 2019

A further site visit on 3 September 2019 revealed the garage door has been secured but the requirements of the Section 215 Notice detailed above have not been carried out.

Assessment

The condition of this property is such that it is adversely affecting the amenity of the area. This matter has been ongoing since June 2016. No contact has been received by the Planning Enforcement team from the property owner, or any person or persons appointed to represent their interests. The property has been vacant and unoccupied since investigation commenced in June 2016.

Due to the lack of response of the owners of the property, direct action is seen as an option to remedy the overgrown plants, trees and shrubbery.

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If Members are minded to approve direct action and the property owner subsequently permits the condition of the property to relapse, the wider public interest may not be well served in repeating this process. Therefore Members may also be minded to direct its Officers to seek prosecution for failure to comply with the requirements of the Section 215 Notice.

Prosecution in Magistrates Courts can only result in the imposition of a fine without the Court having powers to order compliance with the Section 215 Notice and thus improve the condition of the site. It is also felt that prosecution may be onerous given that we would be dealing with an absent owner who has never responded to any contact by the Planning Enforcement team.

Officers consider that in this particular case the most appropriate course of action would be to use the powers under Section 219 of the Town and Country Planning Act 1990 Planning Act to undertake clean up works and recover the costs from the owner by imposition of a charge against the property.

Financial Implications

There is a financial implication for the Council as the cost of any direct 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 how and when those costs are recovered. There would be no recompense for the Officer time expended on the matter as this would be met from existing budgets.

Legal Risk/ Implications

In terms of the exempt elements of the report (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 the harm to amenity of the locality and to those of neighbouring properties. As the owner cannot or will not take responsibility, the Planning 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 (this being the overgrown condition of the land surrounding the dwelling), authority be delegated to the Head of Legal,

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Equality and Democratic Services, in consultation with the Head of Planning and Regeneration, to take the following action:

- (a) Carry out the works specified in steps 1 to 4 of the Section 215 Notice to tidy the land, remove and dispose of resultant waste matter;**
- (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 – under separate cover

Confidential Site Plan – under separate cover