

## ENFORCEMENT OF PLANNING CONTROL

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(Report of the Director of Environment and Planning)

### 1. Purpose of Report

To determine the appropriate course of action to be taken on the enforcement matters attached at Appendix 1 of the report.

### 2. Recommendation

**The Committee is asked to RESOLVE whether it considers it expedient to take the enforcement action specified in the attached enforcement reports.**

### 3. Financial, Legal, Policy and Risk Implications

#### Financial

3.1 There are no financial implications in the reports.

#### Legal

3.2 Legal implications are as detailed in the reports and as set out in the following Acts:-

Town and Country Planning Act 1990.  
Planning and Compensation Act 1991.

3.3 In terms of the exempt elements of the report, and the “public interest” test for exempt consideration, Officers consider that it is rarely likely to be in the public’s best interest to reveal information which is the subject of possible subsequent legal action (S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order, 2006 refers).

3.4 Under Article 8 of the European Convention on Human Rights, everyone has the right to respect for his/her private and family life, home and correspondence.

3.5 Interference with this right is only allowed in limited circumstances where it is in accordance with the law and is necessary in a democratic society for, among other things, the protection of the rights and freedom of others. A balance needs to be drawn between the right to develop land in accordance with planning permission and the rights under Article 8 of adjacent occupiers.

## Policy

3.6 Policy implications are as detailed in the reports and as set out in the Borough of Redditch Local Plan No. 3.

## 3.7 Risk

None identified.

## 4. **Other Implications**

Any Community Safety, Human Resources, Sustainability or Social Exclusion implications will be detailed in the attached schedule.

Social Exclusion: Enforcement action is taken equally and fairly in accordance with the Enforcement Concordat, regardless of the status of the person or organisation, or the subject of enforcement action.

## 5. **Consultation**

There has been no consultation other than with relevant Borough Council Officers.

## 6. **Author of Report**

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

## 7. **Appendices**

Appendix 1 - Report – 1 - 2008/146/ENF

- Report – 2 – 2007/084/ENF

Appendix 2 - Key to exempt information.

(In view of the fact that it contains confidential information relating to the affairs of individuals and their identities and information relating to alleged breaches of Planning Control which could result in prosecution by the Council, Appendix 2 has been made available to Members and relevant Officers only).

**ENFORCEMENT REPORT - 1 – 2008/146/ENF**

**Condition of land considered harmful to the visual amenity of the neighbourhood**

**Greenlands Avenue, Greenlands, Redditch**

**(Greenlands Ward)**

**1. Background / Key Issues**

- 1.1 This matter comes before your Committee with a long history dating back to 2005 with regard to the condition of the property due to the presence of scaffolding on the gable end of the property, and an alleged business use by way of selling plants grown on the premises. It has also been subject to a number of enquiries from the local Member of Parliament.
- 1.2 The property concerned is a semi-detached house with the gable end facing to the rear of properties in Auxerre Avenue. In March 2005, the then enforcement officer investigated complaints relating to the scaffolding and the storage and sale of potted plants. At the time, following the service of a planning contravention notice, the enforcement officer satisfied himself that the scaffolding had been erected to facilitate repairs to the property and as such did not require permission. He also satisfied himself that the scale of business use was within that permitted for running a business from home.
- 1.3 In October 2005, the then enforcement officer wrote to the owner of the property requesting the removal of the scaffolding, as no works had been undertaken in the preceding months. Despite assurances from the occupier, a further site visit in March 2006 revealed that no works had been undertaken.
- 1.4 On the 30<sup>th</sup> October 2006 a site visit by your enforcement officer revealed that the scaffolding had been dismantled from the gable end, albeit partially as at ground floor level some did remain. At the time, no further action was deemed necessary and the matter was left at that.
- 1.5 On the 4<sup>th</sup> July 2008, further complaints from residents were received, including one via the local Member of Parliament. The site was visited by the enforcement officer who considered that although there was no apparent breach of planning control relating to the business use of the property, he did consider the remaining scaffolding, old wood, plastic sheeting and the potted conifer trees stored in view on top of the scaffolding had deteriorated to such an extent that it constituted harm to the visual amenity of the neighbouring properties and needed addressing.

- 1.6 On the 21<sup>st</sup> July 2008, given the history of the site, a letter was sent to the owner of the property requesting the removal of the scaffolding and potted plants from the gable end of the property.
- 1.7 To date, no response has been received and no action undertaken by the occupier to rectify the situation.

**2. Conclusion**

- 2.1 Your officers consider that the condition of the gable end of this property is now adversely affecting the visual amenity of the neighbourhood, and in particular to those residents of Auxerre Avenue who face on to the gable end.
- 2.2 Your officers also consider this to be a serious breach of planning control which needs to be remediated.

**3. Recommendation**

**The Committee is asked to RESOLVE that**

**authority be delegated to the Head of Legal Services in consultation with the Acting Head of Planning and Building Control to take enforcement action, including the instigation of legal proceedings if necessary, in relation to a breach of planning control, namely, permitting land to adversely affect the visual amenity of the neighbourhood, by way of the serving of a notice under Section 215 of the 1990 Act and the instigating of prosecution proceedings if necessary, in the event of any failure to comply with any requirement of that notice.**

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**ENFORCEMENT REPORT - 2 – 2008/084/ENF**

**Condition of land considered harmful to the visual amenity of the area**

**Southcrest Road, Lodge Park, Redditch**

**(Lodge Park Ward)**

**1. Background / Key Issues**

- 1.1 This matter comes before your Committee with regard to the condition of the frontage of these premises, which is considered harmful to the visual amenity of the area.
- 1.2 The property is a semi-detached dwelling in a popular residential area of the town where dwellings are generally maintained to a high standard.
- 1.3 In April 2007, complaints were received by the Council with regard to the condition of the frontage of the property, particularly in relation to a rusting motor vehicle parked there. Your enforcement officer visited the property and established that the car on the frontage had been there for many years and was now in such a state that it was virtually no longer moveable let alone driveable. He also noted that the garage doors were in extremely poor condition, having not been painted in many years and off their hinges. Overall, he considered that with regard to the surrounding properties, this constituted harm to the visual amenity of the area, especially to the occupiers of the adjoining properties.
- 1.4 Repeated efforts to make contact with the occupier failed to elicit any response, and a Land Registry search was required to find the identity of the occupier.
- 1.5 On the 31<sup>st</sup> January 2008, a legal notice under Section 330 of the 1990 Act was served on the occupier. That notice was returned on the 25<sup>th</sup> February 2008 accompanied by an assurance stating that he would remove the car by June 2008.
- 1.6 On the 5<sup>th</sup> June 2008, the occupier made contact with your enforcement officer requesting a further month to remove the vehicle and complete repair works to the garage, which was agreed.
- 1.7 On the 10<sup>th</sup> June 2008, following further complaints from neighbours regarding lack of action by the occupier, your enforcement officer visited the site and established that there had been little change since his initial visit.

**2. Conclusion**

- 2.1 Your officers consider that the condition of the frontage of this property, in particular the appearance of the garage doors and the rusted motor vehicle is now adversely affecting the visual amenity of the area, and in particular to those residents of properties adjacent to it, with little prospect of improvement in the foreseeable future.
- 2.2 Your officers consider this to be a serious breach of planning control which needs to be remediated.

**3. Recommendation**

**The Committee is asked to RESOLVE that**

**authority be delegated to the Head of Legal Services in consultation with the Acting Head of Planning and Building Control to take enforcement action, including the instigation of legal proceedings if necessary, in relation to a breach of planning control, namely, permitting land to adversely affect the visual amenity of the area by way of the serving of a notice under Section 215 of the 1990 Act requiring the removal of the rusty motor vehicle and the carrying out of repairs to the garage doors, and the instigating of prosecution proceedings if necessary, in the event of any failure to comply with any requirement of that notice.**