



Planning Committee

Various Wards

9th September 2008

ENFORCEMENT OF PLANNING CONTROL

(Report of the Acting 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 - 2007/195/ENF
- Report 2 - 2008/165/ENF
- Report 3 - 2007/221/ENF
- Report 4 - 2008/059/ENF
- Report 5 - 2008/096/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 – 2007/195/ENF

Condition of land considered harmful to the residential amenities of the area

Munsley Close, Matchborough, Redditch

(Matchborough Ward)

1. Background / Key Issues

- 1.1 This matter comes before your Committee with regard to the condition of this property, in particular, the overgrown state of the rear garden, and its effect on the amenities of occupiers of the adjacent properties.
- 1.2 Efforts to negotiate the clearing up of the land to bring it into an acceptable condition have failed to secure any progress, despite verbal assurances being made by the owner back in February 2008.
- 1.3 On the 18th of August 2008, your enforcement officer met with neighbours to discuss the lack of progress. His inspection revealed that the back garden was so overgrown that it would be almost impossible for the owner to go outside and walk around in it, and further, a lean to extension to the rear of the property was in a state of near collapse. It was also noted that vegetation had taken root and was growing strongly on the roof of the garage.
- 1.4 To date, no action has been undertaken by the occupier to rectify the situation.

2. Conclusion

- 2.1 Your Officers consider that the condition of the property is now seriously affecting the residential amenity of the occupiers of neighbouring properties and constitutes 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 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, allowing the condition of the land to adversely affect the residential amenities of the occupiers of adjacent dwellings. Enforcement action would be by way of the serving of a notice under Section 215 of the 1990 Act and the instigation of prosecution proceedings if necessary in the event of any failure to comply with the requirements of that notice.

ENFORCEMENT REPORT - 2 – 2008/165/ENF

**Condition of land considered harmful to the visual amenity of the area
Barford Close, Matchborough, Redditch**

(Matchborough Ward)

1. Background / Key Issues

- 1.1 This matter comes before your Committee with regard to the condition of the rear garden and garage, side wall, frontage and curtilage of this property, which is such that it is now deemed harmful to the visual amenity of both the area and to residents living in adjacent properties.
- 1.2 The property has previously been subject to monitoring by the enforcement officer due to its condition, and the occupier has also in the past been spoken to by officers from Waste Management regarding waste on the public footpath. Complaints have been received recently regarding the deteriorating condition of the property and its surrounds.
- 1.3 On the 6th of August 2008 a site visit was made by your Enforcement Officer who confirmed that the condition of the property has worsened since his last visit. He noted that the garage had lost its roof and had been covered with unattractive blue tarpaulin like material, and the side wall and fence of the property had partially collapsed, revealing a very overgrown rear garden. There were bags of waste materials, bricks and other detritus both on and around the curtilage of the property.
- 1.6 On the 13th of August 2008, a legal notice under Section 330 of the 1990 Act was served on the occupier. (This is a notice requiring information to be provided in answer to questions posed by the LPA in order to determine matters such as the legal ownership of the site and the owner's intentions and usage, in order that any further notices requiring action can be served correctly. The questions are tailored to each particular situation. There is a legal requirement to complete and return these notices within 21 days.) The notice was not returned, however a very long letter was received on the 19th of August 2008 blaming the Council for the problem and indicating the matter may well have to be determined by the Courts.
- 1.6 To date, no action has been undertaken by the occupier to rectify the situation.

2. Conclusion

- 2.1 Your Officers consider that the condition of this property, in particular the appearance of the garage and collapsed boundary wall exposing the overgrown garden now adversely affects both the visual and

residential amenity of the area, and in particular to those residents of properties adjacent to it, with little prospect of improvement in the foreseeable future. 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, allowing the condition of land to adversely affect the visual and residential amenity of the area. Enforcement action to be 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.

ENFORCEMENT REPORT - 3 – 2007/221/ENF

**Condition of land considered harmful to the visual amenity of the area
Exhall Close, Churchill, Redditch**

(Churchill Ward)

1. Background / Key Issues

- 1.1 This matter comes before your Committee with regard to the condition of the rear garden and boundary wall of this property, which is deemed harmful to the visual amenity of the area and to the residents living in adjacent properties. These are three storey properties with first floor living rooms which overlook the property.
- 1.2 The property has been subject to monitoring previously by the Enforcement Officer due to its condition which has been deteriorating over the past few months. Following further complaints, the property was visited again where it was found that the rear wall appeared to be in poor structural condition, with bricks having been removed from its fabric and large cracks were appearing along its length. The garden was so heavily overgrown that local children were using a ramshackle structure to the rear as a “den” which has required police intervention, as any occupier of the property would be unable to see due to the overgrown condition of the garden.
- 1.3 On the 11th of August 2008, a legal notice under Section 330 of the 1990 Act was served on the owner of the land. That notice has yet to be returned completed, although verbal contact has been made. No works have been carried out to alleviate the problem.

2. Conclusion

- 2.1 Your Officers consider that the condition of this property, in particular the appearance of the garden and condition of the boundary wall now adversely affects both the visual and residential amenity of the area and 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, allowing the condition of land to adversely affect the visual and residential amenity of the area. Enforcement action to be 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.

ENFORCEMENT REPORT - 4 – 2008/059/ENF

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

Fenwick Close, Headless Cross, Redditch

(West Ward)

1. Background / Key Issues

- 1.1 This matter comes before your Committee with regard to the condition of this property, in particular, the amount of detritus being stored in both the front and the back garden, and its effect on the visual amenity of the area. The property concerned fronts on to other residential property, whilst the rear backs on to a public footpath and is clearly visible to the public, adversely affecting the amenities of neighbouring properties as well as the visual amenities of the area.
- 1.2 This property has been the subject of concern dating back to 2001 where the records indicate that your then Enforcement Officer provoked some sort of clean up with the need to resort to enforcement action.
- 1.3 In March 2008 complaints were received regarding the condition of the property. Your Enforcement Officer visited the property and found the rear garden to be full of old fence posts, slabs, wood, plastic buckets, wire and other unidentifiable detritus.
- 1.4 On the 27th of March 2008, a legal notice under Section 330 of the 1990 Act was served on the occupier. That notice was returned completed and written assurance was given that the property would be tidied up.
- 1.5 On the 15th of August 2008, your Enforcement Officer visited the property to check on progress and found that no effort had been made to clean up the site.

2. Conclusion

- 2.1 Your Officers consider that the condition of this property, in particular the appearance of the garden now adversely affects both the visual and residential amenity of the area and 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, allowing the condition of land to adversely affect the visual and residential amenity of the area. Enforcement action to be 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.

ENFORCEMENT REPORT - 5 – 2008/096/ENF

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

Birchfield Road, Webheath, Redditch

(West Ward)

1. Background / Key Issues

- 1.1 This matter comes before your Committee with regard to the condition of this property, which is currently void, in particular, the amount of building materials and other detritus being stored on the front garden, and its effect on the visual amenity of the area. The property concerned fronts on to the main Birchfield Road, a busy route in and out of the town, and is adversely affecting the visual amenity of the area as well as the amenities of neighbouring properties.
- 1.2 Your Enforcement Officer first visited the property on the 1st of May 2008 where he found the front garden strewn with building materials, and building rubble from what appeared to be an abandoned building project. There was a car parked on the front drive with a flat tyre, which clearly had not been moved in some time.
- 1.3 Despite a number of letters and cards being put through door, no person has seen fit to contact the Department to discuss the problem. Local enquiries reveal that the owner of the property is an elderly lady who is now resident in a private nursing home, and that enduring power of attorney has passed to a relative. She is apparently unaware of the situation due to the onset of dementia.
- 1.4 Following further complaints, your Enforcement Officer again visited the premises on the 28th of July 2008 and found that there was no change in the condition of the property, except that the frontage was now becoming overgrown due to lack of maintenance. A further letter was put through the door, but again this has elicited no response.

2. Conclusion

- 2.1 Your Officers consider that the condition of this property, in particular the appearance of the front garden now adversely affects both the visual and residential amenity of the area and consider this to be a serious breach of planning control which needs to be remediated, and given the potential legal issues surrounding ownership, formal committee authority should be obtained before stronger measures are taken to identify the relative holding responsibility for the owners affairs.

3. **Recommendation**

The Committee is asked to RESOLVE that

authority be delegated to 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, allowing the condition of land to adversely affect the visual amenity of the area. Enforcement action be by way of further investigation into the enduring power of attorney, the serving of notices under Section 330 and Section 215 of the 1990 Act and the instigating of prosecution proceedings if necessary in the event of any failure to comply with any requirements of those notices.