

Report of	Meeting	Date
Director of Partnerships, Planning & Policy	Development Control Committee	4 March 2014

ENFORCEMENT ITEM

LAND AT SKEW BRIDGE BOLTON ROAD HEATH CHARNOCK

PURPOSE OF REPORT

- To recommend action by the Council under Section 215 of the Town and Country Planning Act 1990.

RECOMMENDATION(S)

- That a Section 215 Notice be served on those persons with an interest in the land in order to remedy the harm caused to the amenity of the area.

EXECUTIVE SUMMARY OF REPORT

- The issue for consideration in this case is whether the condition of the land adversely affects the amenity of the area and if so what steps are necessary for remedying the condition of the land, and the time limit within which the steps must be carried out. The appearance of the land has deteriorated and this has adversely affected the amenity of the area. It would be appropriate therefore for the Council to use its powers to remedy the harm caused which accords with one of the Council's key Corporate Strategies to provide Clean, safe and healthy communities.

Confidential report Please bold as appropriate	Yes	No

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

- This report relates to an area of land lying between the A6 Bolton Road and the Leeds/Liverpool canal running between Skew Bridge to the north and Idle Bridge to the South. Appendix 1 shows the location of the site. Photographs of the site will be available for Members to view at the meeting. The land appears to have had no previous use, however in 2010 ownership of the land changed and the land has since been advertised to let for use as allotments.

6. The use of the land as allotments does not require planning permission. However, complaints have been received concerning the unsightly appearance of the land and in particular the boundary treatment with wooden pallets being used in some cases as fencing. Some of the plots are now vacant but have been left with various materials and other items littering the site. The condition of the land therefore adversely affects the amenity of the area. The land is within the Green Belt and next to the A6 which is the one of the main routes into the Chorley. As such it is in a prominent location and viewed by visitors on a daily basis who pass the site travelling along the A6 and is also prominent to walkers from the canal side towpath and boaters who use the canal. Your officers have previously written to the landowners agent requesting that steps are taken to tidy the site however following a recent site inspection those steps have not been taken.
7. Section 215 of the Town and Country Planning Act 1990 allows local planning authorities to serve a notice as a means of remedying the unsightly nature of land which has an adverse effect on the amenity of the area. There is a right of appeal to the Magistrates Court if exercised who would decide whether the action is justified or not. Whilst such notices are not the long term answer to an un-kept site, they can provide short term improvement and encourage proper long term management and maintenance of the land.
8. In this case the notice would generally require the removal of any loose or fly tipped items or materials, cutting down vegetation to ground level and removal of the pallet fencing and other net screening, and Members should note that the Council's legal officers ultimately determine the wording of the actual notice.

IMPLICATIONS OF REPORT

9. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

10. There is a financial implication to the Council if there is any action to clear the site by the Council. It is considered that this would be alleviated by taking any necessary action to place a charge on the land and thereafter taking legal steps to recover the costs.
11. The risk therefore would relate to when costs are recovered, as this might not be required if the owner and/or occupiers take the relevant steps and may not be required for quite some time

COMMENTS OF THE MONITORING OFFICER

12. If the Committee approves the Section 215 notice it means the owner(s) and/or occupiers can be made to satisfy the steps to remedy the unacceptable impact on the amenity of the area.
13. Failure to comply with the terms of the Section 215 Notice is a criminal offence liable to prosecution. A section 215 Notice can be appealed to the Magistrates' Court under Section 217-218 of the Town and Country Planning Act 1990. Under Section 219 of the Town and Country Planning Act the Council as the local planning authority can take direct action for

non-compliance of the terms of a Section 215 Notice and charge those expenses against the land. It would be expedient to issue a Section 215 Notice in order to remedy the harm and improve the visual amenity of the area.

14. The rights of the owner must be balanced against the wider public interest in allowing the site to remain in its present condition. As indicated above, there are adverse impacts as well as benefits in clearing the site. Article 8 and Article 1 of the First Protocol to the Convention on Human Rights states that a person is entitled to respect for private and family life and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others. In this case, the wider impact of the appearance of the land is considered to override the owner's and the occupiers' right to a peaceful enjoyment of the property. A Notice here would be considered to be a proportionate approach to improving the appearance of the site, without prejudicing the rights of the owners and its occupiers,

Lesley-Ann Fenton
Director of Partnerships, Planning & Policy

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Peter Willacy	5226	25 February 2014	***