

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 03 August 2020

Portfolio:	Planning and Development
Subject:	Works to Property at 98 Bridge Road, Sarisbury Green
Report of:	Deputy Chief Executive Officer
Corporate Priorities:	Protect and Enhance the Environment

Purpose:

This report provides a detailed account of the action undertaken to date to remedy untidy land at this site and the failure to comply with a Section 215 Notice issued under the Town and Country Planning Act 1990. The report subsequently makes recommendations as laid out under Section 219 of the Town and Country Planning Act 1990 for the Council to take 'Direct Action' to ensure compliance with the Section 215 Notice.

Executive summary:

The property known as 98 Bridge Road Sarisbury Green is a semi-detached dwelling with extensive gardens.

The dwelling has been unoccupied for several years and there are abandoned cars left in the front and rear gardens. The rear garden is in an extremely overgrown state with high trees some in excess of 60 feet high. The poor state of the property has a negative impact upon the surrounding neighbours and the amenity of the area.

The Council have carried out extensive enquires and attempted to engage with the property owner to resolve the matter. The Council served a Section 215 Notice under the provisions of the Town and Country Planning Act 1990 which gave directions to improve the condition of the property.

The Council has taken legal action with an individual sentenced at Magistrates Court on three occasions. The fines and costs are still outstanding.

The Council has powers laid out within Section 219 of the Town and Country Planning Act 1990 for the Council to take 'Direct Action' to ensure compliance with the Section 215 Notice.

The cost of carrying out these works will be registered as a local land charge on the Local Land Charges Register to ensure recovery of Council costs in the long term.

This report sets out the justification for taking 'Direct Action' and requests that the required funding is allocated.

Recommendation/Recommended Option:

It is recommended that the Executive authorises the use of sufficient funds for the 'Direct Action' set out in this report to be undertaken under Section 219 of the Town & Country Planning Act 1990 to ensure compliance with the Section 215 Notice issued under the provisions of the Town and Country Planning Act 1990.

Reason:

To ensure compliance with the Section 215 and to have a positive impact upon the amenity of the area and thereby enhance the local environment

Cost of proposals:

£12,879 – Costs to be clarified, it is possible that there are addition costs relating to the clearance of unidentified waste.

Background papers: None

Reference papers: None

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Executive Briefing Paper

Date:	03 August 2020
Subject:	Works to property at 98 Bridge Road, Sarisbury Green
Briefing by:	Director of Planning and Regeneration
Portfolio:	Planning and Development

INTRODUCTION

1. This report provides a detailed account of the action undertaken to date to remedy untidy land at this site and the failure to comply with a Section 215 Notice issued under the Town and Country Planning Act 1990. The report subsequently makes recommendations as laid out under Section 219 of the Town and Country Planning Act 1990 for the Council to take 'Direct Action' to ensure compliance with the Section 215 Notice.

THE SITE

2. The property is known as 98 Bridge Road, Sarisbury Green, Southampton, SO31 7EP. The property is a semi-detached house and is located on the northern side of Bridge Road and is set back from the road. The rear garden is extensive in size, with neighbouring properties having sold the rear section of garden to provide for infill development.
3. The property has been unoccupied for a significant time and Council Tax is currently being charged and paid at 200% of the authorised annual charge. The property is not registered at Land Registry and as such has likely been in the same ownership since before compulsory registration was introduced in the area in the late 1970s.
4. The property is in an extremely poor condition and it appears to have been unoccupied for some years. The rear garden is in an extremely overgrown state with high trees some in excess of 60 feet high and vehicles abandoned. The front garden is again in a poor state with a total of 6 abandoned motor vehicles, including one flat bed van being parked within the area, which are surrounded by dense vegetation. The overgrown nature of the site makes it impossible to gain safe access to the rear garden of the property.

PLANNING HISTORY

5. The planning history for 98 Bridge Road is extremely limited and mainly relates to planning compliance complaints in relation to the untidy state of the land.

6. The Council has received complaints concerning the untidy state of this property consistently since at least 2009. Initially a relative of the owner responded positively to concerns raised by Officers and improvements to the condition of the property were made and the site tidied up. More recently however the relative has failed to respond or act on complaints from Officers concerning the deteriorating appearance of the property.
7. As part of this investigations into this matter, Officers have identified that the owner of the property has moved away from the address and on occasions a relative has returned for brief visits to check on the property.
8. In October 2018, Officers attended the property with a warning letter issued in accordance with Section 215 of the Town and Country Planning Act 1990. The warning letter stated that the Council had received complaints with regard to the condition of 98 Bridge Road and contained a list of actions required to bring the premises to an acceptable standard and thereby ensure that the Council did not serve a Notice under Section 215 of the same Act. In addition to the warning letter, a Notice was served under Section 330 of the Town and Country Planning Act 1990. This Notice required the recipient to answer a number of written questions within a period of 21 days and failure to do so could lead to the Council taking legal action. Copies of the warning letter and Section 330 Notice were also posted through the letterbox at the property, affixed to a vehicle in the front garden and sent by email.
9. Fareham Borough Council did not receive a response from either the Owner/Occupier or relative in relation to the Section 330 Notice.
10. In January 2019, a Notice was served under Section 215 of the Town and Country Planning Act 1990.
11. The Section 215 Notice stipulated that the recipients should carry out the following actions: -
 - Remove the six vehicles and their contents located in the front garden of 98 Bridge Road;
 - Remove the vehicle and its contents located at the side of the property, on the boundary closest to 96 Bridge Road;
 - Remove all vehicles and their contents located in the rear garden of 98 Bridge Road;
 - Remove all vegetation other than trees down to ground level in the front, side and rear gardens to ensure there is a clear unobstructed view of the front of the house from Bridge Road and the entire rear and side gardens when viewed from neighbouring properties;
 - Remove all trees from the front, side and rear gardens other than the one Conifer Tree located close to the boundaries with Bridge Road and 96 Bridge Road; and
 - Remove all rubbish and disregarded items (for example but not limited to abandoned bikes, plastic barrels and wood) from the front, side and rear gardens of the property.
12. In April 2019 Officers attended another address where they met the owner's relative and discussed how the matter could be progressed and resolved. A further meeting was

arranged but relative did not attend. Despite attempts to contact him and numerous enquiries in the area Officers have been unable to speak with the relative again.

13. Officers can confirm that to date that no work has been carried out as stipulated within the Section 215 Notice.

COURT ACTION

14. Fareham Borough Council has subsequently instigated Court Action against the relative of the owner on three occasions for his failure to comply with the Section 330 Notice and 215 Notice. On all three occasions the relative failed to turn up at Portsmouth Magistrates Court and the case was heard in his absence.
15. The total overall fines for the three court cases, including costs, now rests at £12,343.46. The last check with the Court fines team revealed that the fines are unpaid, and it is likely that, in the future, a warrant will be issued for the arrest of the relative for non-payment of fine.
16. Whilst the fines detailed above include the costs of the Council in carrying out the investigations into the three court cases, the eventual recovery of those costs at not a matter for the Council. The outstanding fines and costs are the responsibility of Her Majesty's Court & Tribunal Service who will use their own procedures to recover outstanding fines or consider alternative sentencing.

DIRECT ACTION

17. Despite the best efforts of the Council to engage with owner of the property and relative to secure compliance with the Section 215 Notice through the Courts, the necessary work to improve the visual appearance of the property has not taken place.
18. The impact to the immediate neighbours and the amenity of the area is significant which led to the original complaints to the Council and the issuing of the Section 215 Notice in the very first place. The condition of 98 Bridge Road is a source of persistent complaints to the Council from the neighbours who fear that the condition of the gardens will only deteriorate if no action is taken.
19. Section 219 Town and Country Planning Act 1990 provides powers for the Council to enter land and take those steps which were specified in the Section 215 Notice. Furthermore, the Council can subsequently recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
20. Regulations made under the Town and Country Planning Act 1990 provide that Section 276 of the Public Health Act 1936 applies. This is the power of local authorities to sell materials removed in executing works under that Act subject to accounting for the proceeds of sale.

Method

21. The Section 215 Notice served at 98 Bridge Road broadly requires action to: -
 - remove vehicles and contents
 - remove vegetation and trees
 - remove all rubbish and disregarded items

Officers have given careful consideration as to what direct action is required to bring about compliance with the notice. It is considered that the Local Authority will need to use private contractors in order to achieve compliance with the notice and the proposed measures to deal with the different elements separately is outlined as follows: -

Vehicles and contents

22. An approved Local Authority Operator has been contacted to provide an estimate of the cost for removing the vehicles and contents on the site. At this stage Officers can confirm that there are 6 vehicles located at the front of the property (includes 1 flatbed lorry) 1 vehicle located at the side of the property and possibly 2/3 vehicles in the rear garden. Many of the vehicles appear to be full of rubbish. The costs for recovery of the vehicles from the property and storage would be in the range of £880 to £1383 plus VAT. The cost difference is dependent upon time taken and additional vehicles located in the rear garden.
23. There is a legal requirement to store the vehicles and contents for a period of three days prior to the Local Authority being able to sell or otherwise dispose of the vehicles.

Vegetation and trees

24. A local tree surgeon has attended 98 Bridge Road and provided a quote to carry out the necessary work within the front and rear gardens. The quote is a total of £9350 plus VAT. The tree surgeon has recommended the leaving of chippings on site to suppress re-growth and reduce costs of removal. The tree surgeon estimates that the works at the property will take 10 days to complete.

Rubbish and disregarded items

25. At this stage it is difficult to assess the implications of the costs to remove all the other items from the site to ensure compliance with the Notice. This is due to the fact that any form of access to the site is near impossible at this present time. Depending on how the other actions are progressed, the waste could be sorted by contractors as the site is cleared and then a further assessment carried out to decide whether it should be removed or safely stored on site. Skips could be used if it is decided to remove additional waste from site.

FINANCIAL IMPLICATIONS

26. The total overall cost of the removal of the vegetation and vehicles from the site is £10,733 plus VAT. As mentioned above this does not include the removal of the other waste.
27. This situation is one that does not occur very often and as such the cost of these works if agreed by the Executive will need to be financed from the General Fund reserve as there is no budget available to cover the expenditure.
28. There remains a route where in the long term the costs could be recovered from the owner but given the history with the relative of unpaid fines and not attending meetings there is potential that the cost will fall on the council in the short term.
29. However, in order to mitigate this, the cost of carrying out these works will be registered as a local land charge and entered on the Local Land Charge Register. The charge

would be revealed when any local search is conducted on the property. This would subsequently bring the charge outstanding to the attention of a future potential buyer of the property to ensure that the charge is settled prior to purchase and thereby increase likelihood of those costs being settled in the long term.

30. In the longer term the Officers are exploring options to solve the problem permanently, by forcing the sale of the property or seeking a Compulsory Purchase Order to ensure that there is regular maintenance of the property.

RISKS

31. It is possible that the costs of works are never recovered or that any recovery of costs takes a substantial period to be recovered.
32. The carrying out of works would provide the opportunity for more cars to be abandoned at the address and/or the property reverts back to its current state. However, any vegetation would take some years to grow back to the current unacceptable height. Once the works have been carried out under this notice, any new vehicles left at the property or worsening of the state of the property generally, would need to be the subject of a new Section 215 Notice.
33. The house itself is in a poor state of repair but is currently hidden from view. An unintended consequence of the removal of cars and vegetation is that it will increase the visibility of the house in the locality and street.
34. It is however also a risk for the Council not to take action as proposed in terms of the reputation of the Council from not taking positive action to resolve the matter despite having powers to do so.

RECOMMENDATION

35. That the Executive authorise the use of sufficient funds for the 'Direct Action' set out in this report to be undertaken under Section 219 of the Town & Country Planning Act 1990 to ensure compliance with the Section 215 Notice issued under the provisions of the Town and Country Planning Act 1990.

Enquiries:

For further information on this report please contact Jon Snook. (Ext 4703)