

Decision Maker: PLANS SUB COMMITTEE NO.3

Date: Thursday 28 August 2014

Decision Type: Non-Urgent Non-Executive Non-Key

Title: 15 OAKLEY DRIVE, BROMLEY, BR2 8PL

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Chief Officer: Chief Planner

Ward: Bromley Common and Keston

1. Reason for report

Following a complaint regarding an alleged untidy site on 22nd May 2012 the premises a semi-detached dwelling house in a quiet residential street, the front and rear gardens were overgrown with a small accumulation of rubbish on the front garden , in the rear garden was a large shed extending the width of the garden and was in a poor state of repair.

Works were undertaken to clear the front garden and waste was removed. The shed in the rear garden remained in a poor condition and a S215 Notice was issued requiring removal or repair of the shed and to leave the land in a clean and tidy condition.

The shed was removed prior to a visit on 1st April 2014, however the land where the shed had been had a small amount of waste materials in the same position with a fencing panel which had been dislodged exposing the materials to the neighbouring garden.

The views of members are requested to ascertain whether Direct action would be appropriate in this case.

2. **RECOMMENDATION(S)**

- 2.1 **It is not considered to be expedient or proportionate or in the public interest to pursue this matter due to the fact having regard to the small amount of waste materials and their position on the property there is no detrimental impact on the surrounding area or any effect on the amenity to neighbouring properties.**

- 2.2 The amount of time needed to rectify the complaint would be disproportionate to what could be achieved on site to remedy any harm being caused (the covering of the materials as agreed by the owner) and as such we consider it not expedient to pursue any further action in this instance.**
- 2.3 Should Members be mindful to go ahead with enforcement action, there will be a cost implication regarding direct action as addressed in the report below.**

Financial

1. Cost of proposal: None
 2. Ongoing costs: None
 3. Budget head/performance centre: Planning
 4. Total current budget for this head: £649,470
 5. Source of funding: Existing revenue budget 2014/15
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3. COMMENTARY

- 3.1 Reference is made to the previous reports which have been considered by Plans sub committees, and which it is recommended that members familiarise themselves with. In summary, after a number of years of enforcement action, the amenity of this site has improved to the extent that the garden is now maintained regularly and the shed which was in a bad state of repair has been removed.
- 3.2 What currently remains in the garden is a relatively small amount of domestic rubbish.
- 3.3 The Town & Country Planning Act states at S215 *“If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.*
(2)The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.” “Amenity” is not defined in the legislation and government guidance recognises that this may vary from case to case.
- 3.4 The site was visited on 15th July 2014 where it was noted that the fencing adjacent to where the removed shed had been had been replaced and although a small amount of waste was still in situ , the waste was not visible from the complainants garden or from the public realm.
- 3.5 Further enquiries were made at neighbouring properties where the site was not visible and no issues were raised.
- 3.6 The remainder of the garden of the property appears to be maintained in a tidy state with a gardener having visited the previous day.
- 3.7 The owner of the property was contacted, he did not consider that the waste materials in the garden constituted harm to the amenity of neighbouring properties.

- 3.8 He also stated that the council would not be permitted to enter his land and that he would take steps such as the erection of razor wire to prevent access, but that he would take steps to obscure the remaining rubbish from being in any way visible, by covering it up with obscure green netting material by 17 August 2014. Further clearance work has also been undertaken although some waste still remains.
- 3.9 The quantity of waste now on site, coupled with the fact that it is not visible from the public realm, and is obscured from site of neighbouring properties by the new fence, does not, in the professional opinion of officers, constitute an adverse impact on the amenity of the area.
- 3.10 In the event that access is denied by the owner, the Council as Local Planning Authority could not enter the Land and carry out the works without first obtaining a warrant to do so from the Magistrates Court. To attempt to enter the Land without the authority of the court could leave the Council open to a claim that it was trespassing. It is for the magistrate at that stage to decide whether to grant such a warrant. If granted, it would then become necessary to have the police present when entering the premises.
- 3.11 Should Members be minded to agree enforcement action, Officers have sought two quotations for the removal of the waste materials, one at £235 and the second quotation of £360. There may be additional unquantified expense to consider, such as the cost of locksmith's services on top of this figure, which may exceed the cost of the works. Considerable officer time may be involved in the application for a warrant, together with the instruction of works and presence when the works would be carried out.
- 3.12 Although any costs incurred could be recovered from the owner, Officers consider that any direct action would be deemed unreasonable and therefore it would be unlikely that the Council would be able to recover the full costs and therefore any costs incurred for enforcement action would have to be funded from the Planning revenue budget.
- 3.13 In conclusion, taking account of the small amount of waste materials, little if any detrimental impact on the surrounding area or any effect on the amenity to neighbouring properties from the position of the waste on the property and the amount of time needed to rectify the complaint would be disproportionate to what could be achieved on the site to remedy any harm being caused, it is not considered to be expedient or in the public interest to pursue this matter any further.

4. FINANCIAL IMPLICATIONS

- 4.1 This report is recommending that no further action is taken and therefore there are no financial implications.
- 4.2 However, should Members wish to agree further enforcement action, it should be noted that although Officers would attempt to recover from the owner any costs incurred, it is likely that the action may be seen as unreasonable and therefore the Council would have to meet the estimated enforcement costs from the planning revenue budget for 2014/15. Estimated costs could be between £235 and £500 depending on the costs of any additional expenditure required such as services from a locksmith.

5. LEGAL IMPLICATIONS

- 5.1 Addressed in report

Non-Applicable Sections:	POLICY, PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	

