

**Decision Maker:** **PLANS SUB-COMMITTEE NO. 1**

**Date:** **Thursday 6 August 2020**

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

**Title:** **DIRECT ACTION - EVERGREEN, JAIL LANE, BIGGIN HILL**

**Contact Officer:** John Stephenson, Head of Planning and Development Support Team  
Tel: 0208 461 7887 E-mail: John.Stephenson@bromley.gov.uk

**Chief Officer:** Assistant Director (Planning)

**Ward:** Darwin;

---

1. Reason for report

Evergreen is a privately owned detached bungalow set in approximately 2 acres of land on a busy country lane. The site is enclosed and secured by metal gates to the front of the property. The site is located within the Metropolitan Green Belt.

The property is the subject of probate and one of the sons has been residing at the premises. The son (occupier) has been taking in waste materials for some time for which he has been paid per load. A large amount of waste materials has been brought onto the property by the occupier for payment and despite both magistrates and county court proceedings the waste materials remain in situ which is causing further issues in relation to rat infestation.

---

2. **RECOMMENDATION(S)**

That Members decide on a course of action, taking into account the cost implication that would be incurred.

Impact on Vulnerable Adults and Children

1. Summary of Impact: n/a
- 

Corporate Policy

1. Policy Status: Not Applicable
  2. BBB Priority: Quality Environment:
- 

Financial

1. Cost of proposal: Estimated Cost
  2. Ongoing costs: Non-Recurring Cost
  3. Budget head/performance centre:
  4. Total current budget for this head: £
  5. Source of funding:
- 

Personnel

1. Number of staff (current and additional):
  2. If from existing staff resources, number of staff hours:
- 

Legal

1. Legal Requirement: Non-Statutory - Government Guidance
  2. Call-in: Not Applicable:
- 

Procurement

1. Summary of Procurement Implications:
- 

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): n/a
- 

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments:

### **3. COMMENTARY**

- 3.1 Evergreen is a detached bungalow set in approximately 2 acres of land on a busy country lane. The site is enclosed and secured by metal gates to the front of the property. The site is located within the Metropolitan Green Belt.
- 3.2 The property is the subject of probate and one of the sons has been residing at the premises. The son (occupier) has been taking in waste materials for some time for which he has been paid per load. A large proportion of the rear garden of the property has been filled with waste materials to a considerable height.
- 3.3 On 6 August 2019 a S215 untidy site notice was served on the occupier which he failed to comply with as a result a summons was issued and the occupier attended Magistrates Court, where he pleaded guilty to failure to comply with the enforcement notice. The waste materials were not cleared and the occupier continued to bring in further waste materials for payment.
- 3.4 On 5 March 2020 an injunction was obtained from County Court which prohibited further waste materials being brought onto the site.
- 3.5 Complaints continued to be received alleging further materials were being brought onto the site however the required evidence to deal with the alleged breach of injunction was insufficient to pursue that course of action.
- 3.6 A further summons at Magistrates Court was listed for hearing in relation to the failing to comply with S215 enforcement notice but due to illness the defendant was unable to attend and due to the Covid19 outbreak a further date was not given.
- 3.7 On 11 June 2020 a further warning letter was sent to the occupier advising him that if the waste materials were not cleared from the site within one month further action would be taken by way of a summons.
- 3.8 On 13 July 2020 the site was visited, waste materials were clearly visible from the gate.
- 3.9 A further application for a summons is in progress.
- 3.10 Notwithstanding the prosecutions being undertaken the issue of the waste materials will remain as the Magistrate is unable to require removal of those materials as part of the sentence.
- 3.11 Complaints continue to be received regarding large scale rat infestation. Environmental Health from London Borough of Bromley has advised that they are unable to take any effective action due to the ongoing presence of waste materials.
- 3.12 Should the criminal and civil proceedings be unable to secure the removal of the waste materials direct action is sought to allow the Council to employ a contractor to remove the said waste materials and place a charge of the land. The cost of removing the materials is unknown at this time but could be substantial given the amount of waste that is on site. Advice is also being sought for further injunctive action in relation to the removal of the waste.

### **4. FINANCIAL IMPLICATIONS**

We would need to obtain three quotes in line with the Council's procurement policy. Any direct action taken will result in a charge being placed on the land to secure recovery of the costs to the Council.

## 5. LEGAL IMPLICATIONS

In order to pursue a committal application for the breach of the current injunction, evidence would be required to show that a breach was taking place by the occupier. Gathering such evidence to a court standard is not proving possible at this point.

In order to pursue injunctive relief to require the removal of the accumulated waste, the Council would have to show that the criminal court was proving ineffective. A single conviction would be insufficient to do this. Further prosecution has been commenced, but progress is slow due to the current restrictions.

If the council pursues direct action, a charge could be made against the property, meaning that the costs could be recovered when the property, which is currently on the market, is sold.

<b>Non-Applicable Sections:</b>	Impact on vulnerable adults and children, Policy implications, personnel implications, procurement implications
Background Documents: (Access via Contact Officer)	[Title of document and date]