



REPORT TO: Planning Committee
LEAD OFFICER: Planning and New Communities Director

1 June 2016

Enforcement Report

Update to the report- for information only

Agenda report paragraph number 5 (f) – Cottenham (The Maltings, Millfield)

1. It remains the intention to report the matter to the Planning Committee meeting on 6 July 2016 (“the July meeting”) for the purposes of seeking authority from the Committee for the Council itself to take direct action (pursuant to Section 178 of the Town and Country Planning Act 1990) to commission the carrying out of demolition if the Owners of the site have not themselves commenced substantive demolition at the time when the July report needs to be written.
2. The interim period will be used to obtain cost estimates to carry out and complete the demolition works if the Council were itself (ie. rather than the Owners) to commission such works. The July meeting will then have the financial figures to inform any decision whether to authorise direct action and not least because the funding of the works (if authorised) would need to be financed initially from the Council’s own funds but with the intention that such costs are then sought to be recovered by the Council from the Owners of the site.
3. It is thought however that there are two matters which can be brought to the present meeting in June for information and without the need for cost estimates. Accordingly, Planning Committee members are asked to note for information two points, as set out below.

Point 1

4. Officers intend to pursue steps pursuant to Section 179 of the Town and Country Planning Act 1990 for the issue of criminal proceedings against the Owners for breach of the relevant Enforcement Notice. Criminal proceedings for breach of a planning enforcement notice are triable either in the Magistrates Court or in the Crown Court and if successful will result in the Owners of the site being guilty of a criminal offence and liable for payment of such fine as ordered by the Court.

Point 2

5. Officers intend to pursue steps (alongside the criminal prosecution under Point 1 above) to seek a “Confiscation Order” under Part 2 of the Proceeds of Crime Act 2002. Such an order if successful will allow for recovery of monies that have passed through the hands of the relevant business or individual(s) (i.e the Owners) during the period of breach.
6. A further consideration is set out below and depending on what progress is made between now and the writing of the July Planning Committee Report it may be that this third point will be brought to the July Committee for information as one of the potential next steps alongside seeking authority for direct action by the Council in terms of the Council rather than the Owners commissioning the demolition works if not substantively commenced at that time.

Consideration

7. Application under Section 41 (1) of the Proceeds of Crime Act 2002 for the Crown Court to make a restraint order prohibiting any specified person(s) (i.e the Owners) from dealing with any realisable property held by the specified person(s). A restraint order could for example restrict the Owners having access (or only limited access) to Bank accounts and such that there was an increased prospect of the Council recovering all relevant costs where it is forced to take direct action to commission the demolition works.
8. The points under paras 4 and 5 as set out above are fully supported by Planning, Enforcement and Legal officers.

Additional Background Papers: the following background papers (additional to those referred to in the agenda report) were used in the preparation of this update:

None

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