

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

**REPORT TO:** Development and Conservation Control Committee

10<sup>th</sup> May 2006

**AUTHOR/S:** Development Control Quality Manager and  
Head of Legal Services

### 103 Caxton End, Bourn

#### Purpose

1. To consider whether a Notice should be served under Section 215 of the Town and Country Planning Act 1990 requiring land at 103 Caxton End, Bourn to be cleaned up.

#### Effect on Corporate Objectives

|                                 |  |
|---------------------------------|--|
| 2. Quality, Accessible Services | Improvement on the quality of the environment and enhancement of the Bourn Conservation Area |
| Village Life                    | General benefit to the village of removal of an eyesore                                      |
| Sustainability                  | Potentially assisting the reuse of unkempt land  |
| Partnership                     | None   |

#### Background

3. On 13<sup>th</sup> September 2005 a full planning application for the erection of two dwellings on 0.37 hectares of land fronting Caxton End was refused for the following reasons:
  - a) The proposed erection of two new dwellings in the countryside would be contrary to Policy P1/2 of the approved Structure Plan 2003, which states that development in the countryside will be restricted unless the proposals can be demonstrated to be essential in a particular rural location; no such justification has been put forward in this case.
  - b) The proposed development site is located outside the village framework for Bourn as defined on Inset Proposals Map 10 of the South Cambridgeshire Local Plan ("The Local Plan") 2004; the proposed erection of two new dwellings on the site would be contrary to Policy SE8 of the Local Plan, which precludes residential development outside village frameworks.
  - c) The scale, height and extent of the proposed buildings across the frontage of the site would start to visually coalesce development along Caxton End and would erode the informal rural character of scattered and widely spaced dwellings along the lane; the proposal would not therefore preserve nor enhance the character and appearance of Bourn Conservation Area and would consequently be contrary to Policies P7/6 of the Structure Plan 2003 and EN30 of the Local Plan 2004.
  - d) It is not considered that previous uses, extent of former buildings, appearance or contamination of the land justify, individually or cumulatively, allowing the scale of the proposed development contrary to the above-mentioned Development Plan policies.
- 3.1 The application was considered at the 7<sup>th</sup> September 2005 Committee as Agenda item 16 following a visit to the site by Members.

- 3.2 The untidy condition of the land and occasional infringements of the highway has been the subject of correspondence between Bourn Parish Council, the County Council, South Cambridgeshire District Council and the Police Authority since at least 1969. Prior to that and sometime after 1964, it appears that the ownership of the land passed to Mr Sparks, who started to accumulate the material now seen on the land. The former Cock and Bottle Public House also fell into disrepair and became ruinous sometime after 1964. Mr Sparkes died in 2003.
- 3.3 Bourn Parish Council has requested by letters dated 7<sup>th</sup> November 2005 and 12<sup>th</sup> December 2005 that the site be cleared of rubbish, that the former public house be fenced off as soon as possible as it poses a risk to the public and that a container on the site is either removed or planning permission applied for.

### **Considerations**

4. In conjunction with the planning application for two dwellings, an environmental report was prepared for the applicants. It was dated May 2005.
- 4.1 The report was carried out by "Chemex", whose brief was to review and cost the removal and remediation of contamination at 107 Caxton End, Bourn and to put forward a proposal for clean up works and remediation of the site.
- 4.2 The area of site studied was 2.1 hectares. The study estimated the extent of the potentially contaminative sources as follows:
- a) 200 scrap vehicle items including, cars, vans, motor cycles and caravans
  - b) Stockpiles of engine parts
  - c) Vehicle tyres
  - d) Up to 20, 40-gallon oil drums in mixed condition
  - e) Over 20 gas cylinders
  - f) Up to 50 refrigerators and freezers
  - g) Washing machines
  - h) Up to 5 large piles of bicycles
  - i) Asbestos sheeting
  - j) Up to 100 car batteries
  - k) Over 50 areas of burnt ground used for the firing of unknown materials
  - l) Household and miscellaneous refuse
- 4.3 Despite the unkempt nature of the land, the materials identified above can be seen in part by the public from Caxton End and from a public footpath which crosses the rear part of the site in a NW-SE direction.
- 4.4 Some 0.38 hectares at the front of the site and extending back from Caxton End by an average of some 40 metres is within the Bourn Conservation Area.

- 4.5 There are a number of residential properties fronting the south west side of Caxton End and one a short distance to the north west on the opposite side of the road.

### **Options**

5. The Committee may decide to do nothing, pending the outcome of any future planning application. The 6-month period to lodge an appeal against the refusal of the application for two dwellings has now expired. The applicants may wish to pursue an application for one dwelling. There is no certainty that any permission would be implemented, even if an application is approved.
- 5.1 Following a meeting with Bourn Parish Council representatives and Councillor Mrs Spink on 3<sup>rd</sup> November 2005, the Head of Legal Services wrote to Hewitsons, as Executors in the Estate, on 4<sup>th</sup> November (copy at Appendix 1). Hewitsons replied on 25<sup>th</sup> January 2006 (see Appendix 2). There appears to be no prospect of site clearance being undertaken voluntarily.
- 5.2 A Section 215 Notice could be served requiring the clearance of all specified scrap material from land fronting Caxton End within the Conservation Area in order to enhance the character and appearance of the Conservation Area. Equally it could require the same from land in the vicinity of the public footpath at the rear of the site and it could require the demolition of the former Cock and Bottle House. This would be a partial solution only. It could result in material being moved to other parts of the site.
- 5.3 A S215 Notice could be served requiring the clearance of all specified scrap material from the entire site and demolition of the former Cock and Bottle Public House.
- 5.4 It should be noted that S215 Notice can allow a local planning authority to require land to be cleared up, when its condition adversely affects the amenity of the area. The statutory provision does not extend to contaminated land.

### **Financial Implications**

6. A quote received by this Council on 9<sup>th</sup> March 2006 estimated the cost of "segregation, clearance and disposal of all loose and visual hazardous and non-hazardous wastes" at £195,000 + VAT. If asbestos is found this could increase the quote by 10-12%.

### **Legal Implications**

7. The provisions of the Section are designed so as to secure the remedy of the conditions of which the local planning authority complain. It is empowered to serve notice on the owner and occupier of the land requiring specified steps to be taken within a specified period. A person of whom a notice is served may appeal against a S215 Notice to the Magistrates Court and may be made on any of the following grounds:
- a) That the condition of the land to which the Notice relates does not adversely affect amenity;
  - b) That the condition of the land to which the Notice relates is attributable in some way to the carrying out of operations or a use of land in accordance with Part III of the Town and Country Planning Act 1990 (Control of Development);
  - c) That the requirements of the Notice exceed what is necessary for preventing the condition of the land from adversely affecting amenity; and
  - d) That the period for compliance specified in the Notice is unreasonable.

- 7.1 An appeal against the decision of the Magistrates Court may be brought by either party to the Crown Court.
- 7.2 The penalty for non-compliance with the terms of a Notice is liability, on summary conviction, to a fine not exceeding level 3 (£1,000).
- 7.3 Alternatively Section 219 confers a self help power on the local planning authority in the event of failure to comply with the Section 215 Notice. The local planning authority may itself enter the land and take the steps specified in the notice. The local planning authority is then entitled to recover its reasonable expenses from the owner. If the expenses are not paid by the owner, a charge could be registered against the land. However, the local planning authority could only recover expenses to the value of the assets of the owner.
- 7.4 Apart from S215 Notice, the Council has the power under Section 78 of the Building Act 1984 to remove the danger to the public of the unattended structure of the former Cock and Bottle Public House. The Senior Building Control Surveyor advised Hewitsons Solicitors on 23<sup>rd</sup> February 2005 of the risk to the public that this structure posed. Hewitsons replied by letter dated 2<sup>nd</sup> March 2005 (see Appendix 3).

### **Staffing Implications**

8. Planning and Legal Officers will be involved in drawing up the S215 Notice and ensuring that steps are taken to ensure compliance.

### **Risk Management Implications**

9. The Conservation Area is harmed by the untidy appearance of the land, albeit that the land was in that state when the Bourn Conservation Area was extended in 1997 to include Caxton End.
- 9.1 The attractive rural character of Caxton End will continue to be blighted by the unsightly condition of the land.
- 9.2 The condition of the land could attract fly tipping and pose a further contamination risk.

### **Consultations**

10. Bourn Parish Council is clearly of the opinion that the land should be cleared. It was consulted, along with Councillor Mrs Spink, in November 2005 when a decision was taken to write to Hewitsons Solicitors.
- 10.1 Following receipt of the Hewitsons letter, dated 25<sup>th</sup> January 2006, internal meetings between the Head of Legal Services, Environmental Health and Planning Officers have been held, culminating in this report.

### **Summary and Conclusion**

11. The unsightly appearance of the land seriously harms the character and appearance of the Conservation Area, the rural nature of Caxton End and the attractiveness of the public footpath. Moreover the unattended ruin of the former Cock and Bottle Public House is considered to be a danger to the public.
- 11.1 A Section 215 Notice under the Town and Country Planning Act 1990 would be an appropriate mechanism to tackle this dereliction and to remove the dangerous structure.

## **Recommendation**

12. It is recommended that a Notice under S215 of the Town and Country Planning Act 1990 be served requiring:
- a) The removal from the land of all items of hazardous and non-hazardous waste, including all vehicles, motorcycles, caravans and bicycles and parts thereof, gas cylinders, oil drums, batteries, asbestos sheeting, household goods and other miscellaneous refuse; and
  - b) The demolition of the ruin of the former Cock and Bottle Public House.
- 12.1 In the event of non-compliance with the requirements of the Notice, direct action be taken with costs being recovered by an appropriate means, taking into account all material considerations appertaining at that time.

**Background Papers:** the following background papers were used in the preparation of this report:

Planning Application file reference: S/1265/04/F

Environmental Report, land at 107 Caxton End, Bourn - May 2005

Town and Country Planning Act 1990 Section 215, Best Practice Guidance ODPM January (2005)

DETR Circular 2/98 Prevention of Dereliction through the Planning System (1998)

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