

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Rob Walker, Executive Director - Place

**To:** Performance Monitoring Panel Wednesday, 18 March 2020

**(Author:** Dee Bedford, Community Safety & Enforcement Manager)

**Subject** Untidy Sites

**Purpose:** To provide an update on untidy sites within the district

### **Recommendation(s):**

- 1) That the content of the report be noted
- 2) That work continues to ensure an agreed process is in place across departments when responding to reports relating to untidy sites

### **1.0 BACKGROUND**

- 1.1 The Performance Monitoring Panel on 29<sup>th</sup> January requested an updated report on untidy sites within the district.
- 1.2 Appendix A details an updated list of untidy commercial sites where the council holds records in relation to a report received from a member of the public. It outlines the types of reports that have been received, the legislation that could be used if appropriate and proportionate and what action is currently being taken where recent reports have been received.
- 1.3 At the request of the panel the appendix also includes two additional columns in which any additional information from Planning and Growth and Commercialisation departments is provided and can be going forward. These columns currently show most of the planning consents across these sites have lapsed and that none of these sites feature on the agreed work programmes for the Growth and Commercialisation team at this present time.
- 1.4 **Planning – Untidy Sites**
- 1.5 Section 215 of the Town and Country Planning Act 1990 (as amended) provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring land and buildings to be cleaned up when its condition adversely affects the amenity of the area. If it appears that the amenity of part of their area is being adversely affected by the condition of neighbouring land and buildings, they may serve a notice on the owner requiring that the situation be remedied. These notices set out the steps that need to be taken, and the time within which they must be carried out.
- 1.6 LPAs also have powers under s219 to undertake the clean-up works themselves and to recover the costs from the landowner.

- 1.7 The use of s215 by LPAs is discretionary and it is therefore up to the LPA to decide whether a notice under these provisions would be appropriate in a particular case, taking into account all the local circumstances. LPAs will need to consider, for example, the condition of the site, the impact on the surrounding area and the scope of their powers. In some circumstances s215 notices may be used in conjunction with other powers, for example, repair notices in respect of listed buildings or dangerous structure notices.
- 1.8 Wherever possible, however, action using s215 needs to be combined with proactive measures such as empty homes strategies, development briefs and public/private funding programmes, as well as other reactive enforcement and development management tools (including conditions and legal agreements on planning permissions).
- 1.9 The scope of works that can be required in s215 notices is wide and includes planting, clearance, tidying, enclosure, demolition, re-building, external repairs and repainting. In preparing notices it is critical that LPAs ensure that the works specified by a notice do not themselves result in a breach of planning control e.g. unlawful works to a listed building, or material alterations to premises for which planning permission should be sought.
- 1.10 Where costs cannot be immediately recovered for direct action works LPAs have the option of registering a charge on the property with the Land Registry, thus assuring full cost recovery plus base-rate interest. There is also provision within the Land Charges Act for the interim procedure of placing an estimate of the charge that will become due on the property. This effectively ensures the land or property cannot be sold without a charge being shown on the land.
- 1.11 Public bodies have a range of the statutory powers to compulsory purchase (CPO) land and buildings. By way of examples land required for new roads would ordinarily be acquired through CPO utilising the Highways Acts, town centre or site regeneration ordinarily through the Planning Acts. These powers can be considered for use in the event that an acquisition cannot be agreed through negotiation. In the case of the former it would be the County Council not District Council who would be the authority making the order for compulsory purchase.

Utilising CPO powers is ordinarily the option of last resort when all attempts to acquire through negotiation have failed. Every attempt to acquire through negotiation should be made in order to avoid the lengthy and potentially costly process of seeking an order for Compulsory Purchase.

If the District Council sought to acquire any of the untidy sites listed in Appendix 1 by utilising powers available to it by virtue of the Planning Acts, ordinarily it must be able to demonstrate it has good reason to do so i.e. a compelling case that it is in the public interest, planning consent is in place or there is good prospect that this would be the case with policy support, for the purpose the asset is being acquired. In addition, it is important that there is clear evidence that funding is in place to deliver the proposal for which the CPO is intended. The acquiring authority also needs to be cognisant that from transfer a wide range of liabilities would pass over to it as property owner.

Given that none of these sites are presently on an agreed work-programme for Growth & Commercialisation hence there are no plans to actively intervene on these sites through negotiation or failing that, consideration of the use of CPO. Officers will however maintain a watching brief through dialogue with Place colleagues.

#### 1.11 **Planning – Planning Permission**

- 1.12 A number of the sites are in highly sensitive locations within conservation areas and proximity to listed buildings, thus any redevelopment of the sites would need to be designed to reflect this. Planning permission has been granted for the majority of the sites listed in Appendix A, it is the developer who for various reasons has not implemented the permissions, nor sought to submit further applications or engage in discussions with Planning regarding alternative development. A S215 notice is not in itself going to provide any solution to these sites, particularly where the owners are holding companies based abroad. Planning would positively encourage discussions with willing developers with regard to bringing forward the redevelopment of these sites.

## **2 OPTIONS**

- 2.1 Do nothing
- 2.2 Note the content of the report
- 2.3 That work continues to ensure an agreed process is in place across departments when responding to reports relating to untidy sites

## **3 REASONS FOR RECOMMENDATION(S)**

- 3.1 It is recommended that the contents of the report are noted and that work continues to ensure an agreed process is in place across departments when responding to reports relating to untidy sites.

## **4 EXPECTED BENEFITS**

- 4.1 The report provides members with an update on the reports received in relation to untidy sites and the current action being taken.
- 4.2 Members will have assurance that enforcement action is being taken appropriately and that resident and community concerns are being addressed.
- 4.3 It updates members on work in progress to help ensure a consistent approach.

## **5 IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

### **5.2 Constitutional & Legal**

- 5.2.1 There are many pieces of legislation that span across Planning, Building Control, Housing, Environmental, Anti-Social Behaviour, Crime and Disorder and Public Protection functions.

The most appropriate tool or power will be used for each case to resolve the issue.

### 5.3 Corporate Priorities

5.3.1 The work around untidy sites supports the following council priorities:

- Your Place
- Your Health and Wellbeing
- Your Council

### 5.4 Crime and Disorder

5.4.1 Working with the owners and taking proportionate enforcement action is a key part of community safety and addressing crime and disorder concerns

### 5.5 Equality and Diversity / Human Rights

5.5.1 It should be noted that surveillance techniques and investigations need to consider Article 8 of the Human Rights Act which covers right to privacy. Judicial and quasi-judicial action is also subject to Article 6 – right to a fair trial.

### 5.6 Health & Wellbeing

5.6.1 Ensuring appropriate action is taken with regards to untidy sites impacts on the health and well-being of local communities.

### 5.7 Financial

5.7.1 There are no direct implications for this report however enforcement action can result in financial penalties alongside proportionate legal costs.

## 6 WARDS/COMMUNITIES AFFECTED

6.1 Services are provided for all those living, working or visiting the district

## 7 ACRONYMS

7.1 None

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Background papers:- None

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### Lead Contact Officer

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**Key Decision:** N

**Exempt Decision:** Y

