

RURAL, ECONOMIC & ENVIRONMENTAL AFFAIRS COMMITTEE

8TH JANUARY 2014

REPORT OF THE HEAD OF REGULATORY SERVICES

FUNDING OF S215 NOTICE 'IN DEFAULT'

EX MILLWAY FOODS PREMISES, COLSTON LANE, HARBY.

1.0 PURPOSE OF THE REPORT

- 1.1 To invite members to consider further action following the service of a s.215 (untidy land) notice in respect of the above derelict premises.

2.0 RECOMMENDATIONS

- 2.1 **That the Committee approve the proposed measures and allocates a sum of up to £50,000 as a Supplementary Estimate for this purpose.**

3.0 BACKGROUND

- 3.1 The ex Millway Foods premises suffered a devastating fire in May 2012 when the majority of the factory building was destroyed. Since that time, the site has lain dormant and complaints have been received about the state of the site and access to the site with concerns about the safety of anyone trespassing.
- 3.2 Following intervention of planning and building control officers and the Health and Safety Executive, the site has been secured to stop unauthorised access.
- 3.3 The state of the derelict building is considered to have a detrimental impact on the visual amenities and character of the area and following requests for the site to be cleared, it was deemed necessary to serve a notice under the provisions of s.215 of the Town and Country Planning Act 1990, commonly known as an 'untidy land' Notice requiring the demolition of the remaining building and the clearing of the site.
- 3.4 It is yet to be seen whether the Notice will be complied with Such Notices have a right of appeal to both Magistrates and High Court and it is indicated that this right will be exercised.
- 3.5 If the notice withstands the challenge(s) at appeal but is not complied with, there are a number of sanctions that could be taken to seek to remedy the matter:
- To prosecute for non-compliance
 - To take direct action, for the Council to seek the removal of the building and waste

These measures are not mutually exclusive and could be pursued concurrently.

- 3.6 It is suggested in this case that whilst prosecuting the owners of the site for non-compliance with the Notice could result in a fine, such action would not remedy the detrimental impact that this site is having on the area.
- 3.7 It is suggested that in the event of non-compliance with the Notice, in order to remedy the matter, the Council ought to consider direct intervention, which would require engaging appropriate contractors to carry out the works on behalf of the Council. Whilst the Council would have to commit the expenditure for the works to be carried out, the Council would seek recovery of the costs from the owner and if necessary place a charge on the land. However, recovery would depend upon the financial standing of the owners and, if a charge on the property, if and when it is sold.
- 3.8 The completion of such a contract of work would require the employment of specialised contractors used to dealing with such matters, such being carried out without the landowners consent. There are also technical difficulties for example, it is known that the site contains asbestos (hence the involvement of the HSE referred to above).

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 The principle policy and corporate implications are considered to relate to the risks associated with the risks of pursuing direct action. These are addressed in Sections 5 and 9 below.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 There are financial implications in respect of the contract for the works to clear the site. It would be necessary for quotes to be sought from suitable contractors to clear the site and the sum specified in this report is based on an initial, informal, estimate (Contractors have been approached and a more precise sum will be reported to the Committee) . It is considered important to seek funding should it transpire that this Council has to intervene if the recipients of the Notice fail to comply with it. This is to ensure through deterrent that the notice cannot simply be ignored and there would be no consequence.
- 5.2 The main financial risks are considered to be associated with the recovery of expenditure, should the Council take the measures described above. There is limited dialogue with the landowners and we are not aware whether the building was insured and whether insurance monies have been claimed, nor the wider financial standing of the company. Similarly, we are not aware whether the landowners have any intention to sell the site, although we are aware that they regard it as having development potential and have promoted its development through Planning Applications and latterly the Local Plan process. However, to date none of these initiatives have resulted in a positive outcome.

5.3 Such matters would need to be investigated further prior to any intervention taking place, with a view to assessing and limiting the Council's liability.

6.0 LEGAL IMPLICATIONS

6.1 The power that is conferred to the Council to take direct action to seek compliance with the untidy land notice is under s.219 of the Town and Country Planning Act 1990.

7.0 COMMUNITY SAFETY

7.1 There are concerns about the safety of those entering the site, whether authorised or not, not only from the inherent danger of entering a derelict building, but also of health concerns linked to the existence of asbestos on the site that has been disturbed by the fire.

8.0 EQUALITIES

No equalities issues have been identified.

9.0 RISKS

Very High A				
High B				
Significant C		1,2		
Low D				
Very Low E				
Almost Impossible F				
	IV Negligible	III Marginal	II Critical	I Catastrophic

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Impact

Risk No.	Description
1.	The cost to the Council of clearing the site could be more than the market value site
2.	There is limited understanding of the landowner's financial standing and intentions for the site.

10.0 CLIMATE CHANGE

10.1 There are no climate change issues arising from this report.

11.0 CONSULTATION

11.1 No consultation will be required.

12.0 WARDS AFFECTED

12.1 Long Clawson and Stathern

Contact Officers: Jim Worley – Head of Regulatory Services
Andrew Dudley – Lead Enforcement Officer

Date: 23rd December 2013

Background Papers: s.215 notice