UNTIDY LAND AND VACANT BUILDINGS IN THE OXTON AREA

1. Executive Summary

1.1. This report describes the action taken by the Department of Planning and Economic Development to address problems arising from untidy sites and vacant buildings in the Oxton area. It follows a public meeting in the area at which concerns were raised about the effectiveness of the Department’s intervention. The report explains how the Council currently deals with vacant and untidy land and property across the Borough and recommends a series of proposals that could be implemented to deal with this problem more effectively.

2. Introduction

2.1. This report follows a public meeting in September at which a number of problem sites were discussed. Local residents expressed concern at the continuing problems associated with untidy land and vacant buildings and the time it appeared to take to produce effective and sustainable remedies. The local MP specifically asked for these issues to be investigated by the Select Committee, making reference to the action taken by the Planning Department in respect of 2-8 Balls Road, and the Oxton Congregational Church and other vacant plots in the area.

2.2. Vacant and untidy land and property and the problems that they cause is becoming a serious issue not just in Wirral but across the country. Fly tipped, overgrown and untidy land can create a local sense of neglect and may pose a potential nuisance in terms of environmental health.

2.3. If left it can begin to adversely affect the amenity of the immediate area. If appropriate action is not taken when the problem is first reported, these sites can become harder to tackle. For example, fly tippers target them or youths start congregating on them causing a disturbance and soon the situation escalates.

2.4 The report sets out the powers available to the Local Authority, our experience of applying these powers and options to improve effectiveness.

3. Current Legislation

3.1. Sections 215-219 of the Town & Country Planning Act, 1990 sets out how a Local Authority may deal with land or property that has become detrimental to the amenity of the immediate area. A Section 215 notice compels the owner to undertake the necessary steps to remedy the condition of their land or property and maintain it in the future.
3.2. A site must meet the ‘detrimental to the amenity of the immediate area’ criteria to warrant action. As a general rule, a Section 215 notice should only be threatened where land is overgrown, has suffered from the deposit or tipping of waste or has been left in an unacceptable condition following the demolition or dilapidation of any building.

3.3. However, there is no limit to the amount of times a Local Authority can issue notice under the terms of Section 215 in respect of a problematic site. This is particularly true where issues connected to a site may have been adequately resolved only for them to reoccur.

3.4. In addition to the powers available under the terms of Section 215, Building Control is able to take action against landowners who have allowed their properties to become seriously detrimental to the amenity of the neighbourhood. Section 79 of the Building Act 1984 empowers Local Authorities to serve notice upon an owner specifying the works to be completed. Should the owner default the Council can undertake the works and attempt to recover the cost of doing so.

3.5. In cases where a complaint is received or an incident occurs concerning property that is either potentially or imminently dangerous, Sections 77-78 of the Building Act 1984 provide the powers to serve notice on the landowner specifying the works to be completed. Again, should the landowner default the Council can undertake the works and attempt to recover the cost.

3.6. Building Control can also respond to complaints concerning property that is unoccupied or ineffectively secured against unauthorised access. Notice can be served upon the landowner specifying the works to be undertaken. Housing and Environmental Health is also able to serve similar notices in the same situations. However, their main remit is public health and notices can be served upon landowners that have failed to clear land of rubbish and/or household waste. If the owner fails to respond, works can be undertaken in default and charged to the land.

3.7. The above powers enable a Local Authority to be reactive rather than proactive. The Council, in undertaking works when utilising these powers, may incur significant construction or repair costs. To date this area of work has not been identified as a resource priority and no budget allocation has been identified to undertake a proactive programme of work.

4. The Section 215 Procedure

4.1. Following receipt of a complaint the site is visited, evidence collected and conditions assessed. If it is established that the land or property is detrimental to the amenity of the immediate area the landowner is contacted. In some cases the landowner is cooperative and formal action is not required. However, when the co-operation of the landowner is not forthcoming the Council will take formal action under the terms of Section 215.

4.2. Negotiation and co-operation has been the basis of the authority’s Section 215 programme and much has been achieved without dedicated resources. In 1994, external funding for a Neglected Land Scheme ceased and there has been no external funding available to the Council with which to tackle recurring problem sites. A consideration in the serving of a Section 215 Notice is the potential financial burden
arising from costs incurred in default. Where possible we seek to avoid these either by seeking a resolution through negotiation or application of alternative powers.

4.3. The serving of Section 215 notices is not always as successful in securing a long-term resolution as it could be. Experience has shown that landowners realise the process is long winded and are not deterred by the prospect of the modest penalties for non-compliance.

4.4. In 1998, in recognition of the financial issues Local Authorities face when issuing Section 215 notices, the Government introduced subtle changes to some aspects of the Section 215 legislation with the introduction of Environment Circular 02/98. Where an owner has failed to comply with a Section 215 notice, the Act now enables Local Authorities to enter onto land, undertake works specified in that notice and recover any expenses reasonably incurred in doing so [Section 219 (5)]. The Local Authority can then place a charge on the land, which is binding on successive owners; to assist in the recovery of any expenditure incurred in default. These charges become recoverable when the land is sold.

4.5. Unfortunately the effectiveness of this change is diminished in the case of many of our more problematic sites as they are worth very little so that when or if they are eventually sold there is little chance of recovering the costs from landowners.

4.6. In spite of these constraints action to tackle untidy sites has produced some successes. It is however unfortunately the case that these improvements have not always been swiftly achieved nor always sustained.

5. Issues

5.1. Our experiences of using the Planning Act powers available under section 215 have identified a number of issues. These are summarised below.

- Landowners that own more than one site within the Borough are more likely to ignore the Council when contacted.

- Establishing ownership and making initial contact is rapid but when a landowner demonstrates a clear refusal to co-operate, the Section 215 process can become lengthy and cumbersome.

- Negotiation and co-operation does not always secure a long-term solution and the situation has to be revisited more than once.

- Many sites may be unsuitable for re-development, do not generate an income or the owner has an over-inflated idea of value and there is no incentive to act.

- Undertaking works in default can involve the Council in considerable unplanned expenditure.

- Other legislative powers may be appropriate but are financially constrained. As a result, action is inconsistent.
• The Magistrates Court has the power to set a daily fine on a landowner who has failed to comply with a Section 215 notice but may be reluctant to do so in the absence of the landowner at a hearing. This can lead to delays in remediating the problem. Alternatively, a Magistrate may penalise an owner but it may not be high enough to be effective or the landowner may be unable to pay.

• As has occurred in the past, the Magistrates Court may not support the action taken by the Council.

6. Resolutions

6.1. Below are a number of proposals that, if implemented, could bring about an improvement in the way that the Council deals with problems connected to vacant and untidy land and property.

• A small budget to fund emergency works or works in default would strengthen the process and maintain the momentum. This would allow a programme of basic works to be put together to include clearance, soiling and seeding and the erection of a post and rail fence to secure the land against fly tipping. Alternatively the existing process of undertaking works in default and charging against the owner or property, as used in public safety issues, could be applied more frequently.

• Seeking to compulsory purchase the most problematic sites could further strengthen the process as the Council could treat and maintain them until they can be disposed of.

• In circumstances where a property has caused a significant problem to the surrounding neighbourhood and all other options have been exhausted, the Local Authority may consider enforced sale. The Law of Property Act 1925 gives Local Authority’s the right to enforce sale of a property for “best price”. The property must have charges registered against it and the property itself must be registered with the Land Registry. The owner must have an outstanding debt with the Council. The Enforced Sale Procedure has been used by Manchester City Council, and was utilised to assist and aid its corporate objectives in respect of empty properties and has been used very successfully to bring derelict property back into use and to realise costs expended.

• As part of the commitment to Streetscene, we will seek to better integrate regulatory activities.

• The Housing Market Renewal Initiative will help to address areas with some of the worst cases of vacant or abandoned residential properties.

• Greater priority could be given to take landowners to Court for the non-return of Section 16 notices which would make the process more effective.

• The steps identified above could be developed into a more proactive approach that seeks to target resources to the areas of most need. This would help to strengthen the council’s Local Agenda 21 policies, could identify sites suitable for housing and would deliver at least one of the Council’s corporate objectives to protect and improve the environment.
• Quarterly reports would keep Members up to date on the type of issues that are being raised, the financial cost to deal with them and the progress being made on an area by area basis.

• Progress could be monitored against the amount of complaints the Council receives and the time it takes to resolve the problem. It may confirm that it is possible to affect a real change in the way that vacant land and buildings are dealt with and prevent them becoming detrimental to the amenity.

• Members may feel that external funding is required to deliver an improved programme. A new Small Sites bid including the worst sites could be put together and submitted to the Northwest Development Agency with a request for external funding.

7. Oxton Case Study

7.1 There are ten sites within the Oxton Case Study that have been identified as being detrimental to the amenity of the immediate area. These are shown on the map at the back of the report. A colour copy of the map showing these sites outlined in red, will be made available to view in the Members Room and on the night of the Committee. Appendix One details the action that the Council has taken to date on a site by site basis.

7.2 Appendix Two refers to those sites where the Council has been successful in securing a solution to problem sites. These are shown on the map at the back of the report. A colour copy of the map showing these sites outlined in green, will be made available to view in the Members Room and on the night of the Committee.

7.3 Each of the ten sites has been the subject of complaints. These range from land that is mildly overgrown and untidy and instances of severe fly tipping through to properties that have been abandoned, are open to access or potentially dangerous.

7.4 The appropriate action has been taken on each site using Section 215 powers or a combination of Building Control and Environmental Protection legislation.

7.5 In the more serious cases where the landowner has consistently failed to take the required action, the Council has stepped in and undertaken the works in default. This course of action has been costly and was only effective in the short term.

7.6 In other situations where, for example bin bags full of domestic rubbish have been left on land and all that is required is that they be removed, the services of the Hit Squad have been secured.

7.7 Three of the ten sites, shown outlined in red on map one at the back of the report, are owned by a single landowner. One was treated with Derelict Land Grant in 1989. This was sold on and the landowner purchased a grassed and fenced site that was suitable for residential redevelopment but subsequently failed to apply for the necessary planning permission. The Council currently undertakes grass cutting biannually and removes any fly tipping.
7.8 The other two sites were also dealt with under the terms of Section 215 when the landowner failed to act. Works were undertaken in default by the Council and charged against the land. Unfortunately, the benefits were short lived as the owner has consistently failed to maintain the land or dispose of it and all three sites continue to be a problem.

7.9 Of the remaining eight sites, action has been undertaken using a combination of Planning, Building Control and Housing and Environmental Protection legislative powers detailed in Appendix One attached.

8. Financial and Staffing Implications

8.1 The Implementation Section provides a complaints service for untidy land and vacant property and this service is met from existing staff resources. There is no specific budgetary provision set aside to cover direct expenditure on sites but just as with public safety work may be carried out and the costs charged against the owner or land. It is only if charges are not paid then a budgetary liability may arise. However the frequency of these works have so far been rare and therefore it is anticipated that the future liability arising from current level of activity will be low. Nevertheless should the activity intensify then this would need to be reviewed.

8.2 Should Members agree a more proactive approach, additional resources may be required as described above. Alternatively it may be possible to secure assistance from the Northwest Development Agency in the form of a Small Sites Package.

9. Equal Opportunities Implications

9.1 There are no Equal Opportunities arising directly as a result of this report.

9.2 Should it become necessary for the Council to undertake works in default in the future, the tender documents that may be provided to local contractors selected to quote for work should be written in full accordance with the Council’s Equal Opportunities policy.

10. Local Agenda 21 Implications

10.1 There are a number of Local Agenda 21 implications arising from this report.

10.2 Personal Safety – In their worst state, vacant and untidy land and property can attract vandals, fly tippers and local children. This can have a detrimental effect on the amenity of the area. Local residents may then feel that their immediate area is neglected, run-down and that this encourages other, more serious crimes.

10.3 Environmental Implications – The historical and visual aspects of this part of the Oxton area deserve to be restored together with an acceptable standard of public health that reflects a good quality of life.

10.4 Natural Resources – The Council is committed in its policies to the re-use of Brownfield sites. All the sites highlighted in this report meet those criteria but not all are suitable for redevelopment. In those instances where land can be recycled, the Council’s Building Control Section positively encourages applicants to include recycled
materials, or materials from a sustainable resource, and sustainable construction methods.

11. Local Member Support Implications

11.1 The report will be of particular interest to the Oxton ward Councillors. It also has borough-wide implications.

12. Human Rights Implications

12.1 Changes made to the Section 215 process could have implications for the complainants or the landowners under the Human Rights Act 1998. Therefore, any proposed changes should be implemented so as not to affect the Human Rights of either the complainant or the landowner by implementing a process that is unfair and unreasonable.

13. Community Safety Implications

13.1 Vacant and untidy land and property can have a detrimental effect on the safety of a community and the Section 215 programme can assist in making communities safer.

14. Planning Implications

14.1 The Implementation Section works closely with Building Control and Development Control to ensure that landowners receive advice and assistance, if appropriate, with regard to redeveloping their land. The Council has a policy of encouraging the reuse and redevelopment of Brownfield sites across the Borough.

15. Recommendations

15.1 Members are asked to note the report and consider the recommendations below.

- That the Council becomes more proactive in its dealings with problem sites and that Officers produce a strategy identifying the worst affected areas within the Borough for targeted action under the terms of Section 215 taking account of those areas already identified for strategic assistance. The process would be backed up with a programme of basic works to adequately deal with non-compliance

- Members acknowledge the need for additional resource support for activities using Section 215 powers to address vacant and untidy sites and premises.

- Seek to strengthen Compulsory Purchase Powers to buy-in long term problematic sites and property.

- That officers investigate further the feasibility of adopting the Enforced for Sale Procedure and present a further report to Select Committee for consideration.

- Streamline the Section 215 service with those sections and departments dealing with similar problems such as Building Control, Housing (HMRF) and Streetscene
to offer a more effective corporate approach.

- Reports to be submitted to Members on a regular basis to keep members up-to-date with progress with the identification and treatment of sites.

- Officers put together a bid for submission to the NWDA for external funding to treat an agreed number of small sites.

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Appendix One

- Of the ten sites within this area, the Council owns one, three are owned by a single landowner and the remainder by individual landowners.

- **Land adjacent to The Westbourne Public House** is owned by the Council and forms part of the landscaping for the adjoining council properties. The land and the shrubbery had been damaged and vandalised. Vehicles had been abandoned and set on fire in the car park next to the pub and the whole area was in a generally poor state. The Landlord wanted to change the use of the land to a Beer Garden and this was supported by the ward Councillor and local residents but it was rejected by Planning on the grounds of loss of amenity due to the potential noise and disturbance such a use may cause. The land continues to be the Council’s responsibility under Streetscene.

- **Former Squash Club, 127 – 137 Oxton Road** is privately owned and is currently vacant. Whilst in a fairly poor aesthetic condition, the buildings are not sufficiently dilapidated or dangerous to justify demolition or clearance. They are kept secure against unauthorised access but there have been reports of fly tipping at the rear, which is dealt with by the Council. Public safety and the condition of the buildings are constantly monitored by Building Control.

- **Oxton Road Congregational Church** is privately owned and is a Grade II Listed building located in a prime location at the head of Woodchurch Road and Balls Road.

  Due to dwindling congregation numbers it was closed and then later sold. The property has changed hands many times but the Council has maintained regular contact with each of the owners.

  The Church has been badly vandalised and the Council’s Conservation Officer has sought and secured works to secure the building and repair the roof to keep the building weather proof.

  Externally the building has become dilapidated in appearance and Building Control has carefully monitored its structural condition. In August of this year the Council appointed a structural engineer to undertake an appraisal of the Church. The report confirmed that although there was considerable damage from lack of maintenance, water penetration and fire, this did not materially affect the overall stability of the structure. However, the Council has been advised that access inside and around the building should be restricted as a public safety issue. Given the above, there has been no basis for more intervention.

  In April 2002, planning consent for a residential use was granted and the latest owners, a Manchester based company intend to develop the site into residential units in accordance with the existing planning permission.

- **2-8 Balls Road** these buildings have been vacant for a long time and there have been many complaints concerning their appearance and safety. The Building Control Section has largely dealt with these complaints to ensure that the building did not become a danger to public safety.

  In November 2001 notice was served against the landowner under the terms of Section 77 of the Building Control Act 1984. The notice related to the condition of the building...
and required the owner to appoint a structural engineer to identify any necessary repairs to ensure the structural stability of the building and to implement any works that may be required.

- The landowner consistently failed to act and 2-6 Balls Road was finally demolished in June 2003 leaving 8 Balls Road standing. Building Control is in the process of undertaking the demolition of No 8 Balls Road after the owner failed to respond to our requests and the property became immediately dangerous. It is hoped that the site will be redeveloped in the near future.

- In the meantime, a contractor has been appointed and has been on site for a number of weeks now. Stabilisation works inside the property have been undertaken to maintain public safety and ensure that the building can be taken down safely. The fabric of the building had become so fragile that careful and intricate preparation work has been necessary to facilitate the proposed major work required by the demolition and careful consideration has had to be given to the remaining wall of the adjoining property 10/10a.

- Specialist contractors are currently undertaking works to 'stitch' the wall of the adjoining property prior to the construction of three supporting buttressing piers, which will be erected from new foundations.

- In addition, it has been necessary to construct and 'tank', a new basement retaining wall to maintain the integrity of the adjoining property. Once these works have been completed, 8 Balls Road will be demolished and the remaining gable wall made weather resistant.

- The owner of 8 Balls Road is seeking to dispose of this site to the development company who have a planning application deposited, to redevelop the area for residential units. However, this application has not as yet been approved, no progress appears to be being made with the applicant and the sale of the site has not been completed. The building and its immediate future remains uncertain.

- **Land adjacent to 97 Westbourne Road** used to be the garden to 97 Westbourne Road. The dwelling is in multiple occupation and is apparently the responsibility of the same landowner. The owner purchased the land in 1994 but did not realise that it would be unsuitable for residential redevelopment.

- Each time action under the terms of Section 215 has been threatened, the owner has attempted to undertake the required works and maintain the land but has not sustained these efforts. Officers from Planning and Environmental Protection are currently dealing with the dumping of domestic rubbish on the land and an allegation concerning vermin harborage.

- **Land adjacent to 18 Grafton Street** used to be the garden to 15 Devonshire Road and planning consent for a detached dwelling was granted in 1994. The foundations were laid but the dwelling was never completed. In 1998 after many complaints concerning fires being set on the land the Council served notice under the terms of Section 215 upon the landowner. The landowner failed to comply and the Council cleared the land in default. The charges were placed against the land and the owner has yet to complete the dwelling or dispose of the land.
• **Land at the corner of Grosvenor Road/Devonshire Road** was the site of an old factory building and was cleared using Derelict Land grant. In 1990 it was sold to a private landowner and was suitable for redevelopment with a residential after use. The landowner never submitted a planning application. The land was purchased in a grassed and fenced state and the Council now undertakes grass cutting on a regular basis and removes fly tipping when necessary.

• **Land at the corner of Eaton Road/Osborne Road** was the site of three dwellings which have all been demolished. Following the clearance of 5 Eaton Road the land was regularly fly tipped. As a result of frequent complaints from local residents and a failure to comply, the landowner has been served on two separate occasions with Section 215 Notices.

• On the first occasion the landowner complied with the notice. However, on the second occasion the landowner failed to comply and action is continuing to compel the landowner to secure and maintain the land in a reasonable condition.

• The land benefits from a grant of outline planning permission for the erection of ten dwellings but recent discussions with the landowner concerning the submission of a full application have been unsuccessful.

• **Former Arno Rest Home, 123-125 Grange Road West** has been vacant for some time and there have been a number of complaints because the building was open to access. Initially attempts to locate the landowner failed but once found, the Council was able to get the building secured and formal action was not necessary.

• The property benefits from a grant of planning consent for the change of use from a residential home to nine self-contained flats and it is hoped that this will be implemented.

• **Former site of Birkenhead Maternity Hospital, Grange Mount** was the subject of numerous complaints from local residents when children started getting into the site, vandalising the building and the houses around it. Building Control were consulted and they advised the landowner that the demolition of the building and the clearance of the site would be the best course of action.

• The current owners have secured planning consent for residential redevelopment and it is hoped that this will commence toward the end of the year.
Appendix Two

There are a number of sites within the Oxton area where the Council has been successful in securing the necessary action to resolve problem sites.

- **Former site of offices, Westbourne House, 96 Westbourne Road** were previously in good repair when the owner purchased it. Over a period of four years this building was vandalised, set on fire and fly tipped. It had become detrimental to the amenity of the area and the subject of many complaints. Eventually, the building became unsafe and the Council served notice under Section 79 of the Building Act 1984 that required the owner to undertake remediation works to the building or carry out the complete demolition of the building. In addition, notice under Section 215 was served against the owner but it quickly became evident that he would fail to comply with either notice.

- Perhaps because of the pressure the Council was exerting, the seriousness of the matter and the financial implications of non compliance, the existing owner sold up to a new owner who then demolished the building, cleared and secured the land and then built a flatted development.

- **Former site of St Marks Church, Slatey Road** was a vacant church building that was open to access and being vandalised, fires were being set on a regular basis and fly tippers targeted it. Following the demolition of the church the land continued to be fly tipped and children were still getting onto the land. It was clear that this could become extremely dangerous and action was taken under the terms of Section 215. In the end, a notice was not required as the owners tidied the land, secured it and then sold it. It has now been redeveloped with two blocks of flats.

- **Land adjacent to 14 Grosvenor Place** formerly the site of a demolished building, it represented a nuisance for the adjacent school. After initial inquiries, the owner agreed to dispose of the land to the school who turned it into a car park.

- **Former derelict land at the corner of Slatey Road/Balls Road** this was a derelict site which was fly tipped, cars were being abandoned on it and it represented a major concern to the residents in Enfield Terrace. Action was taken under the terms of Section 215 against the owner and was eventually redeveloped with a block of flats.

- **Former site of 37 Slatey Road** had been set on fire and fly tipped. Building Control served a notice under Section 77 against the owner to repair or demolish the property. The owner did eventually demolish the property and sold the land. It was then redeveloped with 6 town houses.

- **Former site of 42 Alfred Road** clearance action to remove an unfit dwelling was originally taken by the Department of Housing. The land was cleared, soiled and seeded and a post and rail fence erected. It was still in Council ownership but was becoming a target for fly tippers. Following complaints the land was marketed more aggressively and was sold to a local business in 2002 for car parking.

In addition to those sites identified in the case study area there are a number of other sites in the wider Oxton area where similar issues have arisen that Planning has responded to and dealt with.
• **Former site of Emmanuel Bible College, Palm Grove** the former Bible College building was demolished soon after its previous owners vacated it. This left a vacant and unattractive site which attracted numerous complaints, particularly from local residents. Action under the terms of Section 215 was initiated but before any action was taken the land was purchased and redeveloped.

• **49 and 51 Christchurch Road** these two properties were looked at following a complaint concerning the scruffy shop fronts. Although action under the terms of Section 215 was not appropriate the owners were contacted and they agreed to a programme of refurbishment works to repair the shop fronts and upper floor windows and brickwork.

• **14 Claughton Firs** at the time of the complaint the cottage was vacant and the front garden was overgrown and untidy. Whilst the gardens of private property are not strictly a Section 215 matter the owners were contacted and they agreed to tidy up the garden. The property is now occupied.

• **Former garage site, Claughton Firs** for many months, this former garage site was vacant and could have become an issue for local residents but is now being redeveloped with a sympathetic mews residential development.