

Committee: Cabinet

Agenda Item

Date: 23 July 2015

7

Title: Authorisation for costs associated with taking direct action for clearance of land at Broxted

**Portfolio Holder: Councillor S Howell
Cabinet Member for Finance and Administration**

Key decision: No

Summary

1. This report has been submitted for members to consider the authorisation of funds to an amount of up to £16,000 plus VAT for the payment of professional fees to Bryan Lecoche Ltd, a Certified Enforcement Agent and Investigator of 1 Marsh Lane, Milton Ernest, MK44 1RB for direct action to clear land at Brick End, Broxted.

Recommendations

2. The Cabinet approve the expenditure.

Financial Implications

3. Costs incurred will be a charge on the land but this is not a guarantee of recoverability. The cost of this work is not budgeted but the expenditure can be transferred from resources.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - a) Enforcement notice dated 02 June 2013
 - b) Enforcement notice dated 30 January 2014

Impact

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None

Human Rights/Legal Implications	Whilst direct action does interfere with the right to enjoyment of property contained in Article 1 First Protocol European Convention of Human Rights such interference is provided for by law and is in the general interest. It is therefore permitted by the Article.
Sustainability	None
Ward-specific impacts	Takeley
Workforce/Workplace	None

Situation

1. This report concerns a small piece of land located opposite the Prince of Wales public House at Brick End, Broxted. The use of the land is for agricultural purposes only.
2. During February 2012 complaints were made to Uttlesford District Council that works were being carried out to the said land.
3. Following an investigation an Enforcement Notice was served on the land owner, on 02 June 2013. The Enforcement Notice took effect on 09 August 2013 and required the cessation of use of the land for outside storage, the removal of fencing, the removal of vehicles and trailers from the land, the removal of the hard core from the land and the re-grading of the earth bund into the land. The time period for compliance with the requirements of the Enforcement Notice was eight weeks from 09 August 2013 unless an appeal was lodged with the Planning Inspectorate. The landowner lodged an appeal against the Enforcement Notice with the Planning Inspectorate but did not pay the required appeal fee. On 19 September 2013 the Planning Inspectorate advised all parties that they had refused to accept the appeal. The result of this was that the Enforcement Notice came back into force and the date for compliance ran from 19 September 2013; compliance with the Enforcement Notice was therefore required by 07 November 2013.
4. On 30 January 2014 a further Enforcement Notice was served in connection with the erection of the building on the land, the siting of the caravan inside the building and the installation of fence panels to a height of 1.8 metres adjacent to the highway. The Enforcement Notice required the removal of the building (and its resultant rubble) from the land, the removal of the caravan from the land and the removal or reduction in height to no more than 1 metre of the fencing. The Enforcement Notice took effect on 13 March 2014 and the time period for compliance was six weeks.

Authorisation for costs for clearance of land at Broxted

5. Following unsuccessful attempts by the Council to ensure the landowner complied with the Enforcement Notices the Council made the decision to take direct action to clear the land. The landowner was advised of this in writing and in November 2014 quotations were obtained for direct action to be taken.
6. One of the companies approached to quote for the direct action was Bryan Lecoche Ltd. Mr Lecoche of Bryan Lecoche Ltd met with the landowner and advised him what would be happening if he were to be instructed by the Council. Following this meeting the landowner began to carry out the works to comply with the two Enforcement Notices. Over the course of the next few weeks the landowner reduced the fencing to the permitted height, he removed the caravans from the land, he removed all but one vehicle from the land, the majority of waste and old tyres, and he re-graded the majority of the earth bunds back into the land. A decision was made that direct action would not be taken because the landowner was endeavouring to comply with the terms of the two Enforcement Notices.
7. The landowner has continued to breach the Enforcement Notices and on 16 June 2015 the two companies who originally quoted for direct action in November 2014 were contacted again.
13. Site visits were carried out on 19 May 2015 and 29 June 2015 which confirmed the land had not been cleared. The breaches now consist of the parking and storage of motor vehicles on the land, the siting of shipping containers and lorry bodies on the land, the storage of mixed waste on the land, the storage of two trailers, the storage of a road roller, the storage of a dumper truck and the construction of a building.
14. To date, the only quotation received is from Bryan Lecoche Ltd who has given a figure of £15,245.66 plus VAT to carry out the remedial works.

Risk Analysis

6.

Risk	Likelihood	Impact	Mitigating actions
Direct action is not taken to resolve the breach of planning control.	1 – Providing the cabinet resolves to make funds available.	3 – The Council is under pressure from adjoining residents to secure compliance with the notices.	Direct action to be taken as soon as possible.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

Cabinet 23 July 2015

Authorisation for costs for clearance of land at Broxton

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.