

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

INCOMPLETE DEVELOPMENTS

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform members of the measures that can be taken to deal with developments that have been commenced but not completed within the time limits set out in the relevant planning permission.

2. BACKGROUND INFORMATION

- 2.1 Sections 91 and 92 of the Town and Country Planning Act 1990, as amended, ('the Act') provide that every planning permission shall be granted subject to the condition that the development to which it relates must be begun not later than three years beginning with the date on which the permission is granted or such other period specified by the local planning authority. If the development is not commenced within the specified period, the permission will lapse.
- 2.2 In order to preserve the permission, many applicants carry out sufficient work to commence the development within the specified period but then leave the development unfinished.
- 2.3 Members of both this authority and of town/parish councils have expressed concern about this course of action and have asked what can be done about it.

3. OPTIONS FOR CONSIDERATION

- 3.1 Section 56(4) of the Act specifies what needs to be done to commence development and to implement a planning permission. The developer must carry out a 'material operation', namely:
 - (a) any work of construction or demolition of a building;
 - (b) digging out a trench to contain the foundations of a building;
 - (c) laying any underground main or pipe to the foundations or to any trench referred to in (b) above;
 - (d) laying out or constructing a road or part of a road;

- (e) carrying out a material change of use of land.
- 3.2 Once planning permission has been granted, a developer could therefore dig the trenches for a new house, fill it with concrete and thereafter the permission is considered valid. The local planning authority cannot specify how long the developer must take to complete the building. The remedy in such cases is contained in Section 94 of the Act.
- 3.3 Section 94 applies where development is begun within the specified period but not completed. It enables the local planning authority to serve a notice requiring development to be completed within a specified period if it is of the opinion that the development will not be completed within a reasonable period. The notice is served on the owner and occupier of the land and on any other party who will be affected. It must be confirmed by the Secretary of State before it can take effect.
- 3.4 The completion notice will not take effect immediately. The notice must specify a period of at least 28 days before it takes effect and any person served with the notice can require the Secretary of State to hold an inquiry before he confirms the notice.
- 3.5 Assuming that the notice is confirmed by the Secretary of State, if the development is not completed by the date specified the planning permission to which it relates will become invalid. This means that no further work can take place under the permission, but the local planning authority cannot take action against any work that has already been carried out. So if a building is half-complete, it will remain so and the local planning authority cannot require its demolition under the terms of a completion notice. If, however, the planning permission was in respect of a number of dwellings on a site and only half of them had been built by the specified date, the remaining half could not be built.
- 3.6 It may be possible to order any half-completed buildings to be demolished by serving a notice under Section 215 of the Act. This allows the local planning authority to take action if it appears that the amenity of the area is adversely affected by the condition of land, which can include buildings erected on the land. Any person served with a Section 215 notice has a right of appeal to the Magistrates' Court but if the appeal is dismissed, or none is made, it is a criminal offence to fail to comply with the notice. In addition, the local planning authority may carry out the work itself and re-charge the cost to the owner of the land.

4. ANALYSIS OF OPTIONS

- 4.1 Service of a completion notice under Section 94 would be most effective where a planning permission related to the large-scale construction of new dwellings or industrial units. It would be far less effective in requiring the completion of a half-built extension or single

house as the work already carried out is authorised development and the local planning authority could not require the removal of any building already erected.

- 4.2 The council has successfully used the procedure contained in Section 215 of the Act on a number of occasions. It is most effective in getting untidy gardens improved by the removal of rubbish, tall weeds, scrap cars, etc. It is also effective in improving the appearance of derelict or semi-derelict buildings where the appearance is damaging the visual amenity of the area.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Staff from the Development Control and Legal sections would be involved in monitoring, resolving and taking action against untidy land and buildings. This can involve extensive and often time-consuming site and office work including court and public inquiry attendance.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 6.1 This matter has Environmental and Section 17 Crime and Disorder implications. Untidy land and buildings and half-built structures can be visually damaging to an area and can attract vandals and antisocial behaviour, which only aggravates the impact on neighbours even more.
- 6.2 Any amendment to the procedure contained in Section 94 of the Town and Country Planning Act, to enable a local planning authority to require the removal of any work already carried out where a completion notice has been served, would require Central Government to amend primary legislation.

7. OUTCOMES OF CONSULTATION

- 7.1 N/A

8. RECOMMENDATIONS

- 8.1 That the contents of this report be noted.

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Background Papers used in the preparation of this report:

Town and Country Planning Act 1990