

REPORT OF: PLANNING, BUILDING CONTROL & LICENSING SERVICES MANAGER

TO: Nelson Area Committee

DATE: 9th May 2016

Contact Details: Neil Watson

Tel No: 01282 661706

E-mail: neil.watson@pendle.gov.uk

**Condition of the site and height of a wall at
Forest House, Cobden Street**

PURPOSE OF REPORT

To inform Committee of the legal status of the site and to consider whether enforcement action is or is not appropriate

RECOMMENDATION

- 1 That a section 215 Notice be served requiring the eastern section, coloured blue, of the area shown on the plan at Appendix A to be brought to be tidied and the building materials, container and other construction items be removed from it.
- 2 That no further action be taken against the height of the wall.

REASONS FOR RECOMMENDATION

- 1 In order to bring the land back to a condition that does not affect the amenity of the area.
- 2 The increase in the height of the wall has no material effect on the amenity of the area or any other interest of acknowledged planning importance.

BACKGROUND

1. Planning permission was granted under ref 13/01/0205P to convert Forest House into a single residence on 7th June 2006. The plan at Appendix A is the plan submitted with the application. The application site is outlined in red with other land in the ownership of the applicant in blue.

2. The area edged blue at Appendix A has been the subject of several planning applications. None have been implemented and no construction on anything that has been granted planning permission is being undertaken on that land.
3. As background to this there are rights that are given to undertake certain forms of development granted under the provisions of the Town & Country Planning (General Permitted Development) Order 2015 ("GPDO"). Included within this is development allowed within the curtilage of dwellings. This includes extensions, outbuildings etc. In this case the extent of the curtilage of Forest House is defined by the red line which was submitted under application 13/06/0205P. That extends to the land immediately to the east of the house but does not include the land edged blue on the plan at Appendix A.
4. The GPDO grants consent for a gate, wall or other means of enclosure to be erected on land. There is a maximum height to that of 1m adjacent to a highway or 2m in any other case.
5. Part 4 of Schedule 4 of the GPDO allows temporary structures or uses to take place on land or land adjacent to land where development is taking place. However the provision does not extend to situations where development is occurring but that development requires planning permission.

Issue

6. There are two issues to be discussed relating to this case. First is whether the materials that are on site are there lawfully and hence would be immune from action under section 215 of the Act. If they are not immune the issue is whether the land is affecting the amenity of the area and it would be appropriate to serve a section 215 Notice.
7. The development that is occurring on site is development to a rear wall and the surfacing of the site in block pavements. As the land is not residential curtilage the block paving is not permitted development and requires planning permission. The wall is over 2m in height and hence work to it also requires planning permission.
8. Therefore the storage of material on site and the siting of containers is there to facilitate development that is not lawful. It does not therefore benefit from permitted development rights to be there.
9. The site has been in a poor condition for some time with items and equipment stored on it. It has not been in an acceptable condition. The owner was contacted prior to Christmas 2015 and asked to tidy the land. Work was carried out and the site has improved considerably in terms of its appearance but is still not in a condition that is satisfactory and that is resulting in the site adversely affecting the amenity of the area.
10. In light of the foregoing it would be justifiable to serve a Notice under Section 215 of the Town & Country Planning Act 1990 requiring the containers, material and other items on the site to be removed and the site left in a tidy condition.
11. The second issue relates to the wall. This is a structure that is situated on the rear boundary of the site. It is circa 6m from the disused "Tropicana" building on its northeast side. The houses opposite on Hibson Road are 63m away and the surgery at the entrance of Cobden Street is 50m away.

12. Photographs dating back to 2000 clearly show that a wall has been in situ for the length of the rear of the land. We do not have measurements of the height of the wall prior to recent work being undertaken to it but the photographs show an extensive structure. The recent work consists of repairs (the original stone work can be clear seen on the lower parts) and an addition to top to increase its height. The best estimate we have of the increase in height is circa 8 inches.
13. The wall has no direct impact on any residential property in terms of being overbearing or effect on light. It is too far from the properties to have any direct impact. The addition to the height of the wall also has no discernible impact on the visual amenity or character of the area.
14. We have been informed that there is concern that the height increase has affected the ability to see Pendle Hill from neighbouring houses. This is however not a planning matter and is an issue that is not material to consider in determining whether or not to take enforcement action.
15. The increase in the height of the wall does not have any material impact on any interest of acknowledged importance and should not be enforced against as there are no credible planning grounds to justify servicing an enforcement notice.

IMPLICATIONS

Policy:

Financial: None

Legal: None arising directly from the report.

Risk Management: None arising directly from the report.

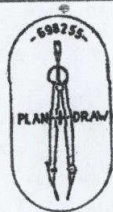
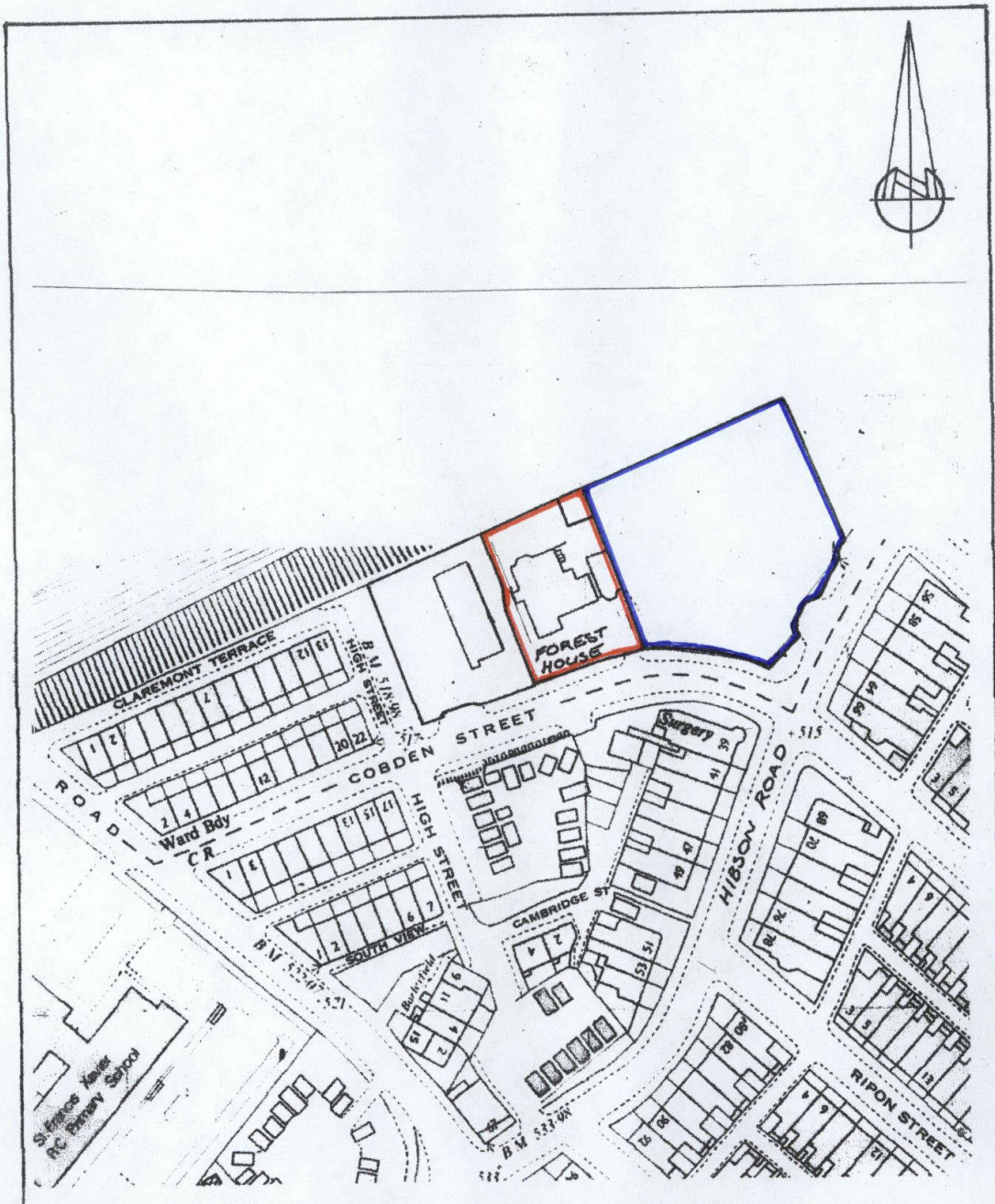
Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.

Appendix A



: location plan :

: scale 1 : 1250 :