



Hinckley & Bosworth Borough Council

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

SCRUTINY COMMISSION 28 MARCH 2018

WARDS AFFECTED: ALL WARDS

Tackling Untidy Gardens

Report of Community Services Director

1. PURPOSE OF REPORT

- 1.1 To highlight the issue of untidy gardens and the reasons behind this problem.
- 1.2 To understand the scope of measures, both legal and voluntary which are available to the council to tackle untidy gardens within our borough.

2. RECOMMENDATION

- 2.1 To note the impact of this issue for the community exposed to it.
- 2.2 To highlight the challenge to council services in dealing with this problem conclusively.

3. BACKGROUND TO THE REPORT

- 3.1 The visual appearance of a community or neighbourhood can subtly influence the way it is perceived by those residing within it, and by those whom visit. It is well documented that the appearance of a neighbourhood can improve feelings of community cohesion and engenders feeling of safety. Broken window theory is a widely recognised criminological approach which suggests that by tackling the minor issues in our communities, such as petty vandalism or damage we are likely to prevent further, more serious crimes from prevailing. From a community point of view, tidy gardens and land mean an area looks well cared for which can result in people feeling safer in their surroundings. Conversely, untidy gardens can contribute to an area looking and feeling neglected. This often results in people feeling unsafe. Whilst untidy sites are rarely dangerous to public health they are all too often regarded as an eyesore, which means that they are detrimental to the local amenity. With this in mind, the council has a robust response to issues which are reported to us.

The prevalence of untidy or unsightly gardens is an issue which affects many of our neighbourhoods within the borough. The problem is not limited to council or other social housing. In response, the council has numerous powers to deal with untidy gardens or land if certain circumstances are met. Through the Endeavour process, there are a number of council departments who can and do take action to address untidy gardens and land including; Environmental Health, Planning Enforcement and ASB and Tenancy Management.

The council department that leads on any intervention or legal action will depend on the nature of the concern, and whether or not the property is owned privately or by the council.

Broadly speaking if the following circumstances are met, the council may be able to take action:

- If the material in an untidy garden is putrescible, for example foodstuffs, faeces, nappies, dead animals and that it is causing a nuisance to neighbours or attracting rats or mice,
- If there is harbourage for vermin such as rats or mice.
- If there is evidence of inert materials which are just unsightly but are unlikely to be causing a statutory nuisance.
- If a breach of a council tenancy is evident
- The council also has powers to help maintain the standard of the local environment.

3.2 Tackling the issue

Privately owned domestic properties or land

Land or buildings in an unsightly condition that may be "detrimental to the amenity of the neighbourhood" can be dealt with under powers available under the Town and Country Planning Act 1990.

The council can serve a Section 215 notice on the owner or occupier when the poor condition and the appearance of the property or land are detrimental to the surrounding area or neighbourhood. The section 215 notice requires proper maintenance of the property or land in question, and it specifies what steps are required to remedy the problem within a specific time period. An appeal may be lodged against the section 215 notice to the Magistrate's court. Non-compliance with a section 215 notice is an offence

Under the Environmental Protection Act 1990 and the Prevention of Damage by Pests Act 1949, Environmental Health have the power to deal with accumulations of putrescible waste on domestic premises; if they are or are likely to attract vermin or are causing a nuisance e.g. from odour emanating from the accumulation. In certain circumstances, the same legislation can be used if the untidy nature of the garden is likely to provide harbourage to a rodent infestation. It should be noted that this does not include premises which are merely unsightly, untidy or in a bad state of repair.

Such properties are frequently characterised by an accumulation of material that can make access to a premises difficult and that may present a physical or fire risk to the occupants or those of adjoining premises. In such cases, a multi-agency approach to management may be necessary which balances support with enforcement and includes the services of other agencies such as Leicestershire Fire and Rescue and Social Care.

3.3 Council accommodation

The ASB and Tenancy Management Team is responsible for ensuring that all conditions of tenancy are met. Upon accepting a tenancy and signing the agreement, a tenant enters into a contract with the council which stipulates certain obligations; the maintenance of a council property and adjoining garden is one such obligation.

The housing service has approximately 3316 properties with 6 tenancy management officers responding to and taking action in relation to a number of tenancy related issues including; rent collection and arrears recovery, legal action for breaches of tenancy, facilitating welfare and support for those that are vulnerable, and other traditional housing management functions. Given the extent and variety of concerns that the Tenancy Management officers are dealing with, they are largely reactive in dealing with untidy garden concerns. That said, it is recognised that an unkempt property or garden can be a sign of other concerns, such as health or welfare issues. In such cases, a significant amount of management and support is then required to help a tenant make improvements and sustain their tenancy agreement. Typically, untidy garden concerns come to light in the warmer months which places an extra pressure on the team, at this time of year, in trying to address such issues effectively.

As stated, a council tenant enters into a contract with the council when their tenancy commences. Although an untidy garden does constitute a breach of tenancy, the council would, in most stand alone cases, resist legal action to evict a tenant as eviction proceedings should only be taken as a last resort, when all other measures have been exhausted. It should also be noted, that the council has faced significant opposition from County Court judges in relation to possession proceedings over recent years, even in cases in which a tenant is in substantial rent arrears. As such, the Tenancy Management Team, where possible, will exhaust all other measures to resolve breaches of tenancy before commencing possession proceedings.

3.4 Informal interventions

The ASB and Tenancy Management team have had great success in moderating the behaviour of those causing nuisance or anti social behaviour through the vehicle of an anti social behaviour contract. An anti social behaviour contract, or ABC is an agreement which is used to try and prevent certain behaviour and encourage more positive ones. The team often uses this measure in cases of persistent untidy garden concerns, to set out for the tenant our expectation, along with hard targets to be met. Failure to meet target set, adds to the overall evidence of non compliance by the tenant which may inform a legal case if other breaches of tenancy are also evidenced, such as non payment of rent.

3.5 Community Protection Notices

The ASB Crime and Policing Act brought with it the introduction of the Community Protection Notice (CPN). The stated purpose of a CPN is to deal with particular, ongoing problems or nuisance which negatively affects the community's quality of life by targeting the individuals responsible.

This tool is possibly our most effective weapon when trying to take action against someone who has the capability to maintain their garden but fails to do so. The CPN process starts with a formal warning, which if not heeded will lead to a full CPN being issued. The recipient must then take notice of the notice to avoid a fine or a court summons. CPNs can be issued by a number of council departments in trying to resolve community protection concerns of this type.

3.6 Balancing support with enforcement

The Endeavour team recognises that an enduring solution to a persistent nuisance or anti social behaviour concern is one that considers support needs in addition to enforcement. As stated, an untidy garden is often an indicator of other welfare needs. In such cases, all of the relevant departments dealings with these concerns would consider a referral to support services, such as social care if it were thought to be necessary.

For some council tenants, particularly those who are elderly or infirm, maintaining a garden to an acceptable standard is a significant difficulty. In these cases, ASB and Tenancy Management team will facilitate gardening services at a reduced rate for these tenants. Unfortunately, finite financial resources mean that we are unable to broaden this services to other categories of tenant, for example those on a low income.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

4.1 The report should be taken in an open session.

5. FINANCIAL IMPLICATIONS [IB]

5.1 None.

6. LEGAL IMPLICATIONS [AR]

6.1 Set out within the body of this report.

7. CORPORATE PLAN IMPLICATIONS

7.1 **People**

1. Support vulnerable people and those who are most in need

Places

2. Keep our borough clean and green
3. Make our neighbourhoods safer

8. CONSULTATION

8.1 Community Safety
Environmental Health
Planning Enforcement
Housing Services

9. RISK IMPLICATIONS

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Contribution to reduced public confidence and feelings of community safety	Effective ongoing community engagement and consultation.	Maddy Shellard

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 10.1 The problem of untidy garden affects all wards across the borough, including rural locations. Often, an untidy garden can indicate that a person or family has other welfare concerns, such as ill health or poor mobility. The Endeavour team work in a multi-agency way to ensure that each concern identified is dealt with comprehensively. Additional and bespoke support is facilitated for those people we identify to have other vulnerabilities which prevent them from maintaining their garden and or property.

CORPORATE IMPLICATIONS

- 11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: none

Contact Officer: Maddy Shellard 01455 255746

Executive Member: Councillor P Wallace