

REPORT TO MAIDENHEAD DEVELOPMENT CONTROL PANEL

Title: **FORMER EAST BERKSHIRE COLLEGE, BOYN HILL AVENUE, MAIDENHEAD, SL6 4EZ**

Date: 16th December 2009

Contact Officer: Graham Stallwood, Development Control Manager - 01628 796042

Wards affected: Boyn Hill

1. SUMMARY

- 1.1 The site is the former home of the Maidenhead campus of East Berkshire College, which closed in 2007. The height of the main college building makes it prominent in the immediate locality and from many points in the wider town, particularly to its south and including from the railway line.
- 1.2 The buildings at the site include the listed Boyn Hill House, which is not in a poor state of repair. Visually there is no doubt the main tower building is unattractive, but this has been so for many years. This is arguably more to do with the architecture of the building rather than its current lack of use. However, the element projecting from the tower has been the subject of graffiti and is not in a good visual state of repair, though views of it are limited.
- 1.3 The Council has powers under Section 215 of the Town and Country Planning Act which can be used to improve the appearance of sites, though the use of these powers is not without financial risk as any notice can be appealed or challenged through the Court system.
- 1.4 The matter is an ongoing concern of Councillor Harris and is presented to the Panel to enable Councillors to decide the appropriate way forward.

2. RECOMMENDATION

The Panel resolves that:

A notice under S215 of the Town and Country Planning Act is served to require:

- **The boarding of windows on the projection from the tower block;**
- **The painting of the boards; and**
- **The painting of the external northern and eastern elevations of the building to cover the graffiti.**

What will be different for residents as a result of this decision?
Residents will see the Council taking positive steps to improve the appearance of their environment.

3. SUPPORTING INFORMATION

Background

- 3.1 The site is the former home of the Maidenhead campus of East Berkshire College, which closed in 2007. It is located opposite the All Saints Conservation Area. Outline planning permission was granted for its partial redevelopment in 2004, but this permission has since expired. The height of the main college building makes it prominent in the immediate locality and from many points in the wider town, particularly to its south and including from the railway line. The site is currently protected by a painted wooden security fence.

- 3.2 The College remains keen to sell the site, but as it is publicly owned the College is expected to achieve maximum revenue from the sale. In the current economic climate this is unlikely to occur at the present time and so the site remains vacant. The site is visited daily by college staff and a security firm visits the site at night.
- 3.3 There are two buildings on the site. There is the listed Boyn Hill House close to the Boyn Hill Avenue road frontage which has the windows boarded for protection, but is not in poor condition. The main building on the site is the former college building consisting of the well known six storey tower and a two storey projection alongside the southern boundary of the site parallel with Boyn Hill Avenue. This building has its ground floor windows boarded where windows have been broken, but its upper floors remain unboarded and the windows are not broken. The projection has some graffiti on it, but the main tower does not. The road boundaries of the site are marked by the original brick wall and a painted hoarding. The painted hoarding is the subject of graffiti and flyposting from time to time, but the College keeps this under control.
- 3.4 Visually there is no doubt the main tower building is unattractive, but this has been so for many years. This is arguably more to do with the architecture of the building than its current lack of use. There is also no doubt that its eventual redevelopment has the potential to improve the appearance of the Conservation Area and its immediate setting as well as the setting of the listed buildings within the site. The wider area should also benefit from the site's redevelopment. However, the inappropriateness of the architecture is not grounds for the Council taking any action.
- 3.5 The projection from the tower has been the subject of graffiti and has a poor visual appearance. Views of it are restricted because of the fencing around the site, but it nonetheless affects the amenity of the area.
- 3.6 Section 215 of the Town and Country Planning Act 1990 ("the Act") provides the Council with powers to require proper maintenance of land if it appears to the Council that the amenity of its area is adversely affected by the condition of that land. Where these powers are to be used the Council may serve a notice specifying steps for remedying the condition of the land and the period for of time within which those steps must be undertaken.
- 3.7 The recipient of a Notice may appeal to the Magistrates Court and has a further right of appeal to the Crown Court. If, once the Notice takes effect, the specified works have not taken place, an offence occurs for which the Council may seek to prosecute. In such circumstances the Council also has powers to enter land, take the necessary steps and recover the cost of doing so from the owner of the land.
- 3.8 In practice the scope of the power is limited by the right of appeal under which the recipient of a Notice may claim not only that the condition of the land does not adversely affect amenity, but that even if it does, it is attributable to, and results from, the ordinary course of events from a lawful use of the land. In the event Magistrates agree with this claim, the Notice is quashed. It may also be argued that the steps specified to remedy the condition of the land are excessive, or not proportionate to the harm to amenity.

4. OPTIONS AVAILABLE AND RISK ASSESSMENT

4.1 Options

	Option	Comments	Financial Implications
1.	Do nothing	Not recommended	Revenue – none Capital - none
2.	Serve a S215 Notice requiring the boarding and painting of the projection from the tower	Recommended	Revenue – Same as option 3, but significantly reduced risk of occurrence.

	Option	Comments	Financial Implications
			Capital - none
3.	Serve a S215 Notice requiring demolition of unlisted buildings on the site	Not recommended	Revenue – appeals would require legal representation. For the Magistrate’s Court this would likely be less than £5,000, but for Crown Court this could be £10,000 and any challenge to higher courts would be significantly more. Capital - none

4.2 Risk assessment

4.2.1 **Option 1** is not recommended. This approach has no financial risk but allowing the site to remain in its present condition and gradually worsen would be inconsistent with the community’s ambitions expressed through the Community Strategy and cascading down into the Council’s Strategic Objectives.

4.2.2 **Option 2 is recommended.** The appearance of the projection is affecting the appearance of the area and the Notice would secure a visual improvement. Such a Notice could be appealed in the Courts and as such has some limited financial risk as identified above. Compared to Option 3, it is more likely the College would comply with its terms as the scope of the works required compared to Option 3 is greatly reduced.

4.2.3 **Option 3** is not recommended. The College is likely to focus efforts on challenging the Notice as the costs of demolition could be as high as £200,000 or more. The College would likely have to borrow money (at cost to the taxpayer as a public body) to carry out the demolition. Defending the Notice through the Courts would also have a significant cost implication to the Council, whilst there is also a very high risk of the Council not being successful. The most likely ground of appeal would be that the harm to amenity from the building being present now is no greater than when it was used as a college and that demolition is not proportionate to the harm to amenity resulting from the condition of the land.

5 IMPLICATIONS

5.1 The following implications have been addressed where indicated below.

Financial	Legal	Human Rights Act	Planning	Sustainable Development	Diversity & Equality
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A

Background Papers:

DoE Circular 10/97 Enforcing *Planning Control: Legislative Provision and Procedural Requirements*
 Planning Policy Guidance note 18 *Enforcing Planning Control* (PPG18)
 Town and Country Planning Act 1990 Section 215 Best Practice Guidance (ODPM)
 Royal Borough Community Strategy 2007-2013
 Borough Strategic Plan 2007-2010