

# MIDDLESBROUGH COUNCIL

## EXECUTIVE REPORT

**Unregistered Land, 80 Cookgate, Nunthorpe**

**Deputy Mayor and Executive Member for Regeneration: Charles Rooney**

**Executive Director for Commercial and Corporate Services: Tony Parkinson**

**Date TBC**

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### PURPOSE OF THE REPORT

1. Set out the future principals in respect to challenging claims of ownership of unregistered land.

### SUMMARY OF RECOMMENDATIONS

2. The Executive approves:
  - The Council does not seek to challenge the claim on the unregistered land adjacent to 80 Cookgate, Nunthorpe.
  - In future, the Council only seeks to challenge other claims in respect of unregistered land where:
    - a) The current use is causing a nuisance to the local community and any challenge would be in support of associated enforcement action by the Council.
    - b) The current use presents a risk to public health and safety and any challenge would be in support of associated enforcement by the Council.
    - c) Any challenge would be to secure land which protects the Council's financial/land interests or supports its strategic objectives.

### IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

2. It is over the financial threshold (£150,000)   
It has a significant impact on 2 or more wards   
Non Key

### DECISION IMPLEMENTATION DEADLINE

3. For the purposes of the scrutiny call in procedure this report is

Non-urgent   
Urgent report

If urgent please give full reasons

## **BACKGROUND AND EXTERNAL CONSULTATION**

4. Mrs Cook of 80 Cookgate, Nunthorpe applied to the Council in June 2014 to buy a small area of land adjacent to her property (See Appendix 1). A land search revealed that the area in question was not in the Council's ownership and Mrs Cook was duly informed.
6. Early this year Mrs Cook has fenced off this unregistered land for inclusion into her existing garden.
7. Mrs Cook will be required to obtain planning approval for the change of use (open space to garden land) as well as for the erection of the fence.
8. The land in question formed part of a substantial grassed verge to the Gypsy Lane dual carriageway (see Appendix 1) which the Council has cut and maintained for a number of years.
9. The local ward Councillors have asked that the Council consider a legal challenge to the Land Registry and claim ownership due to the fact that it has maintained this land for a number of years.
10. Any challenge would go to Land Registry and may or may not be successful and could ultimately be decided at Lands Tribunal.
11. In the event that the Council was successful, we would then require Mrs Cook to remove all of the fencing and the Council would have responsibility for the future maintenance of the land.
12. The land in question has limited value, and it proposed use does not meet the following criteria:
  - a) The current use is causing a nuisance to the local community and any challenge would be in support of associated enforcement action by the Council.
  - b) The current use presents a risk to public health and safety and any challenge would be in support of associated enforcement by the Council.
  - c) Any challenge would be to secure land which protects the Council's financial/land interests or supports its strategic objectives.

## **IMPACT ASSESSMENT (IA)**

13. Stage 1 assessment (see Appendix 2) has been carried out and the proposals do not have any adverse effects on vulnerable or disadvantaged groups in the community.

## **OPTION APPRAISAL/RISK ASSESSMENT**

### **Do Nothing**

14. Take no further action in respect of 80 Cookgate, Nunthorpe and deal with any future issues in respect of unregistered land on an adhoc basis.

15. This approach addresses the immediate issue but does not give officers direction for such challenges in the future.
16. Unregistered land is not an uncommon occurrence and further instances are likely throughout the whole of the Town.

### **Seek Ownership**

17. Challenge Mrs Cook's claim to the land with Land Registry or at a subsequent Lands Tribunal.
18. This will involve officer's time in presenting a legal challenge which may not be successful.
19. It is highly unlikely that we would be able to successfully challenge this particular claim, given that we have taken no steps to challenge the current fencing, and given that we have not had exclusive possession, and have not attempted to claim the land previously.
20. Such an approach could set precedence in respect of other unregistered land in both Nunthorpe and the wider town.

### **Establish Future Guidelines**

21. Only pursue challenges of unregistered land if they meet the criteria as set out elsewhere in this report.
22. In the case of land at 80 Cookgate, Nunthorpe, the criteria has not been met and therefore the Council would not progress a challenge.

## **FINANCIAL, LEGAL AND WARD IMPLICATIONS**

23. **Financial** – Each individual challenge in respect of the unregistered land would be in accordance with property law, involving Land Registry, possible arbitration, Lands Tribunal and further court action, with all associated costs.
24. **Ward Implications** – The ward Councillors would like to see the Council challenge the ownership of the land in question and seek its possession.
25. The Executive Members for Regeneration and Environment have been briefed on the contents of this report.
26. **Legal Implications** – The legal issues and processes have been set out elsewhere in respect of challenging claims of unregistered land.

## **SCRUTINY CONSULTATION – This is optional for Executive Reports only**

27. This report and its contents have not been subject to scrutiny consultations.

## **RECOMMENDATIONS**

28. The Executive approves:

- The Council does not seek to challenge the claim of the unregistered land adjacent to 80 Cookgate, Nunthorpe.
- In future, the Council only seeks to challenge other claims in respect of unregistered land where:
  - d) The current use is causing a nuisance to the local community and any challenge would be in support of associated enforcement action by the Council.
  - e) The current use presents a risk to public health and safety and any challenge would be in support of associated enforcement by the Council.
  - f) Any challenge would be to secure land which protects the Council's financial/land interests or supports its strategic objectives.

## **REASONS**

29. The report sets future guidelines / criteria to be followed in respect of future challenges to claims for unregistered land.
30. The report allows officers to target their resources more effectively in challenging claims relating to unregistered land.
31. An open and transparent framework such as this enables officers to adopt a fair and consistent approach when dealing with future occurrences of this nature.

## **BACKGROUND PAPERS**

No background papers were used in the preparation of this report.

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