

PLANNING COMMITTEE AGENDA – 5th November 2014

Enforcement List

<u>Item No.</u>	Description
1.	ENF/11/00115/UNLD - Untidy land detrimental to amenity and in contravention of Section 215 Town and Country Planning Act 1990 (as amended). 'The Firs', 5 Higher Mill Lane, Cullompton, EX15 1AG

Enforcement List Item 1
5th November 2014

Case No. ENF/11/00115/UNLD

Grid Ref: 302187 107480

Address:

'The Firs', 5 Higher Mill Lane, Cullompton, EX15 1AG

Alleged Breach:

Untidy land detrimental to amenity and in contravention of Section 215 Town and Country Planning Act 1990 (as amended).

Recommendation:

To delegate authority to the Legal Services Manager to take the appropriate legal action including the service of a Section 215 Notice (Untidy Land) and in the event of a failure to comply with such a notice the consideration of prosecution proceedings and/or direct action, or injunction proceedings. Such a notice to require that steps should be taken to tidy the land.

Site Description:

5 Higher Mill Lane, known as 'The Firs', is on the junction of Higher Mill Lane and Forge Way and to the north of this Local Authority's pay and display car park.

Site Plan:



Site History:

No relevant planning history in relation to this matter.

Development Plan Policies:

Mid Devon Local Plan Part 3 (Development Management Policies) Adopted October 2013
DM31-Enforcement

Reasons/Material Considerations

'The Firs', 5 Higher Mill Lane, is a detached single storey dwellinghouse situated on a large plot, it has two road frontages, to the north and west, and a southern frontage which is adjacent to Mid Devon District Council pay and display car park. Information was received by your officers regarding the condition and overgrown nature of the garden surrounding 'The Firs' sometime ago. The situation has not improved, and in fact has worsened. It is now almost physically impossible to get to any entrance doors of the property and the garden has grown over the retaining boundary walls and fences and is affecting the amenity of passers by and neighbouring properties. This is considered to be contrary to Section 215 (Untidy Land) of the Town and Country Planning Act 1990 (as amended).

Protracted attempts to contact and negotiate a solution with the property owner have failed and it is now felt that the only solution is to present this report seeking the authority to serve the Section 215 notice in an attempt to resolve the matter.

Members should be made aware that in the event a notice is served and upheld any future prosecution, if considered appropriate, for non-compliance may not achieve the desired result and it is entirely possible that a further report will be presented to committee by way of update and seeking authority for direct action.

Your officer has hand delivered several letters to the property one of which resulted in a telephone discussion with the property owner who indicated that he would attempt to carry out works to resolve the issue but this has not materialised.

Human Rights and Equality Issues:

Any of the enforcement action taken or as proposed, or as being considered in relation to this report could affect the land/property and the owners/occupiers rights under the provisions of Article 8 and Article 1 of The First Protocol of the Human Rights Act 1998. However the Local Planning Authority feels it is pursuing a legitimate aim in seeking compliance with the Town and Country Planning Act 1990 so as to prevent demonstrable harm in the interests of acknowledged importance and to protect the environment and amenity. In this particular case various attempts have been made by various officers from different sections of this Local Authority to contact the property owner in an attempt to have the land tidied. This has been unsuccessful. The Human Rights provisions in relation to this case are qualified rights and the proposed interference with those rights is considered to be proportionate so as to prevent harm to the amenity identified. Your officers also feel that negotiations and communications have been carried out as much as is possible in line with the National Planning Policy Framework (NPPF) Paragraph 207 and that the proposed action is considered proportionate. The consideration of whether the proposed action is appropriate and proportionate has also been considered in accordance with Policy DM/31 Planning Enforcement Local Plan Part 3.

Options for action or remedy:

The list of options available is as follows:

Take No Action:

No action is not considered appropriate as the condition of the land is adversely affecting the amenity of the area.

Formal Enforcement Action:

Issue enforcement notice to require that the land is tidied.

Formal enforcement action by way of the service of a Section 215 Notice (Untidy Land) Town and Country Planning Act 1990 (as amended).

Your officers recommend formal enforcement action for the reasons set out in this report.

Steps Required:

1. Rubbish and waste items not connected with the lawful use of the site shall be removed from the land to a lawful disposal site.
2. All overgrown vegetation (excluding mature trees) situated within the red line of the notice and the boundaries of the site shall be cut back to ground level. All the resulting material removed to a lawful disposal site.

Period for Compliance:

Six (6) months after the date on which this Notice takes effect (which cannot be less than 28 days).