

Case No. ENF/15/00042/UNLD

Grid Ref: 295602 102936

Address:

Land at Grid Reference 295600 102934, Fore Street, Silverton, Devon

Alleged Breach:

The condition of the land has been allowed to deteriorate causing adverse effect on the visual amenity of the area.

Recommendations:

That the Legal Services Manager be authorised to take any appropriate legal action, including the service of a notice or notices seeking the improvement of the appearance of the land. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

Site Description:

The area of land in question is the site of the old village hall in Silverton. It occupies approximately 620m² of land on the eastern side of Fore Street within the Silverton conservation area.

Site Plan:



Site History:

89/00472/LBC	Listed Building Consent for the removal of roof and perimeter walls above first floor cill height	PERMIT
89/00744/FULL	Rebuilding of first floor of Audit Room; demolition of part of Main Hall; conversion of Audit Room and part of Main Hall to form one dwelling and self contained annexe thereto	PERMIT
89/00826/FULL	Listed Building Consent for the rebuilding of first floor of Audit Room, demolition of part of New Hall to rear, conversion of whole to form one dwelling and self contained annexe thereto	PERMIT
89/01100/FULL	Redevelopment of site to form new dwelling	PERMIT
90/00837/FULL	Construction of dwelling following demolition of existing buildings	PERMIT
94/01747/OUT	Outline for the erection of four cottages	REFUSE
94/01748/LBC	Listed Building Consent for the erection of four cottages	WD
95/01220/FULL	Erection of a single residential unit (alternative proposal to application number 4/45/95/1221)	PERMIT
95/01221/FULL	Erection of a single residential unit (renewal of unimplemented and lapsed planning permission 4/45/90/837)	PERMIT
07/00077/FULL	Erection of 5 Dwellings with associated parking	PERMIT
79/00897/FULL	Erection of new small hall, lounge bar and toilets	PERMIT
10/00201/FULL	Application to replace extant planning permission 07/00077/FULL (to extend time limit) Erection of 5 dwellings with associated parking.	PERMIT

Development Plan Policies:

National Planning Policy Framework

NPPF, Decision-taking - Effective enforcement is important as a means of maintaining confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

Mid Devon Local Plan Part 3 (Development Management Policies)

DM31 - Planning Enforcement

Reasons/Material Considerations:

The old village hall site is a vacant plot that has been allowed to deteriorate to the extent its appearance has a negative impact on the local amenity of the area.

The owner has been approached on previous occasions to improve the appearance of the land; specifically the removal of a skip, the clearance of overgrown vegetation and the repair of the low stone wall along the site frontage. The owner has been made aware that the land is within a conservation area. To date there has been a lack of any meaningful response to the Council's requests to properly maintain the land.

It is now your Officers opinion that a section 215 notice be served, requiring the property to be tidied up.

Human Rights and Equality Issues:

The expediency of Enforcement action has been assessed with reference to guidance contained in the National Planning Policy Framework (NPPF). Expediency has also been assessed with regard to the statutory Development Plan, comprising the Core Strategy 2026 (July 2007), the Allocations and Infrastructure Development Plan Policies (January 2011) the Local Plan Part 3 Development Management Policies (October 2013).

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

The power to issue an Enforcement Notice is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach or breaches of planning control. It must also be satisfied that it is expedient to issue the Notice having regard to the provisions of the Development Plan and to any other material considerations. Consequently the Council must decide based on the particular circumstances of each individual case the question of expediency. The decision to take enforcement action must be reasonable and not based on irrational factors or taken without proper consideration of the relevant facts and planning issues or based on non-planning grounds.

Options for action or remedy:

The list of options available is as follows:

Take no action: - This would not be the appropriate course of action. There is no justification for the land to remain in such a condition and to impair the visual amenity of the area.

Issue a Section 215 Notice seeking works to improve the condition and the appearance of the land - This is considered by your Officers to be the appropriate course of action.

Reasons for Decision:

A Notice is required to be served by the Council under section 215 of the Town and Country Planning Act 1990 because it appears to them that the amenity of part of their area is adversely affected by the condition of the land described within this report.

Steps Required:

The below works are required to be carried out.

1. Remove from the site the skip.
2. Rebuilding the damaged section of the low stone wall fronting the road, height, materials and coping to match the existing remaining wall.
3. Remove from the site, to an authorised place of disposal, all hardcore, waste and demolition materials. Materials to be removed will include bricks, concrete, reinforced concrete, metal, timber, plastic and fabrics.

Period for Compliance:

Twenty eight days from the date the Notice takes effect.