

# Planning Committee – 7 September 2011

## Report of the Legal Services Manager

### Enforcement Item

1. **File/Complaint Number:** E0017/51/2005
2. **Location of Site:** Moor House, Stathe Road, BURROWBRIDGE. TA7 0JN
3. **Name of Owner:** Mr David Bond
4. **Nature of Contravention:** Non compliance with Section 215 notice.
5. **Planning History:**

On 25 April 2008 a Notice was served under Section 215 of the Town and Country Planning Act 1990 following authorisation from the Planning Committee to take action regarding the untidy land at Moor House. This legislation allows a local authority to take enforcement action where the poor condition of a building or piece of land is considered to be adversely affecting its surroundings

The Notice required that the land attached and in front of Moor House, Stathe Road, Burrowbridge to be cleared of scrap vehicles, vehicle parts and debris.

Soon after the Notice was served steps were taken by the owner to clear the Site but these steps did not amount to full compliance with the Notice.

In September 2009 the situation deteriorated. Correspondence was sent to the owner warning him that unless the Site was cleared the local authority would have no alternative but to commence prosecution action for non compliance with the notice. A slight improvement was seen but in June 2010 further complaints were received.

The matter came back before the Planning Committee at its meeting on 30 June 2010 and it was resolved that the Solicitor to the Council be authorised to institute legal proceedings against the owner for not complying with the requirements of the Section 215 Notice.

After the solicitor served the Court paperwork on the owner he contacted her and explained that despite suffering from illness, he was making great efforts to clear up the site and had been to a meeting with the Parish Council to advise the members of what he was doing and they were satisfied with his actions.

The Council's Senior Enforcement Officer visited the Site on 2 August 2011 and observed that the owner had made substantive efforts to clear away the scrap vehicles and debris. The owner also made assertions to the Enforcement Officer that he is determined to keep the site tidy.

The Senior Enforcement Officer visited the Site again on 30 August 2011 and observed that the condition of the Site was continuing to improve and is now in a satisfactory state.

In criminal court proceedings, local authorities are advised to abide by the two stage test set out in The Code for Crown Prosecutors and to review cases. There is an Evidential Stage and a Public Interest Stage. With regard to the Public Interest Stage, factors against prosecution which may be applied to the circumstances of this case include the following:-

- the suspect has put right the loss or harm that was caused;
- the suspect is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated.

#### **6. Recommendation**

It is **RECOMMENDED** that the Solicitor to the Council be authorised to apply to the Magistrates to withdraw the current legal proceedings against the owner because it is not in the public interest to continue with the prosecution.

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