

# **TAUNTON DEANE BOROUGH COUNCIL**

**Planning Committee – 31<sup>st</sup> January 2018**

**Miscellaneous Report**

**E/0154/24/12**

**Untidy site at 12 Town Close, North Curry**

**Occupier: Mr Hunt**

**Owner: Mr Hunt**

12 Town Close, North Curry, Taunton TA3 6LZ

## **Purpose of report**

To update members of the planning enforcement situation at 12 Town Close, North Curry.

## **Recommendation**

That members consider a number of different approaches to remedy the harm caused by the untidy site at 12 Town Close, North Curry and should prosecution action be the choice, that it be deferred to review again in 12 months' time. Alternatively if it is considered that the site is now in a reasonable state, it could be decided to take no further action.

## **Site description**

12 Town Close, North Curry is a small development built by the Local Authority. It comprises mainly of semi-detached and terraced properties fronting onto a small cul-de-sac accessed from Windmill Hill. The properties have front and rear gardens some with parking. Two other parking areas are provided within the development. Many of the properties are now owner occupied, Number 12 being one. The slightly unusual rear garden configuration of number 12 has led to the situation being more noticeable by more properties than would normally be the case. This is due to the garden wrapping around the neighbour's garden and being adjacent to the rear garden of No 5 Chapel Close, a relatively new development.

## **Background**

Members will likely recall that the condition of the site has for some years been a cause of concern for both the neighbours and the Local Authority. Members authorised at the Planning Committee meeting of 30 January 2014 the serving of a Section 215 notice. This was served on 24 February 2014 with a 6 weeks compliance time (12 May 2014).

The requirement of the notice was to remove from the land all the stored and accumulated items as shown in the 3 photographs attached to the notice. A site visit

was made on 19 May 2014 and a number of photographs taken to show what progress had been made in complying with the notice. These photographs were shown at the Planning Committee on 4 June 2014 and members were told by officers that the owner of the site had been advised by the Council's Legal Section that if the notice was not complied with within 14 days from the date of the meeting, the Council would commence prosecution proceedings. The matter was again referred to committee in September 2014 when committee decided to defer prosecution for five months.

Since this time further clearing has continued to take place and the matter has been referred back to committee on a six monthly basis. The matter was last reported back to committee for a further update on 31<sup>st</sup> August 2016 when it was once again resolved to defer any formal action. Following the Planning Committee on the 1<sup>st</sup> February 2017 it was again resolved to defer any action for 12 months.

One letter of complaint has been received before Christmas 2017 stating that the owner has been preparing ground and collecting yet more materials/old tyres, as before, and appears to be planning to start building again.

## **Update on current situation**

I visited the site on the 18<sup>th</sup> January 2018. The garden has been greatly improved since my last visit. A new fence has been erected on the boundary with the open countryside. The garden is very tidy and there is no sign of any tyres on the site.

As previously reported for some time now, it is considered that proceeding with a prosecution is not appropriate and the Court would be likely to take a very dim view of the Council proceeding with such action at the present time. It is very unlikely that this would result in the site being cleared.

It is also considered that taking direct action could result in the site being cleared at the initial cost of the Council, however officers consider that this would not be a proportionate repose to the breach in light of the current situation.

Alternatively committee could agree to take no further action if it is considered that the owner has done enough to remedy the harm, even the Notice has not been fully complied with.

Officers have considered alternative courses of action that could result in the clearance of the site and remedy the harm to the residential amenity of neighbours.

These include:

1. Defer prosecution action for a set period of time – This could allow for the owner to continue to clear the site, however, if further clearance does not occur, the Council could proceed with prosecution action and/or direct action in due course.
2. Prosecution - Where the council proceeds with prosecution action for noncompliance with the Section 215 Notice.
3. Direct action – Where the council looks to take direct action in seeking authorisation to enter the land, clear the site and store the removed items for a set

period of time. A charge would normally be placed on the land so that the Council's cost could be recovered at a later date.

At present, it is considered that proceeding with prosecution at this time would not achieve any kind of satisfactory resolution for anyone.

Taking direct action could result in the site being cleared at the initial cost of the Council, however it needs to be considered whether this is a proportionate response to the breach in light of the current situation. Officers do not consider that it is proportionate or reasonable at this time.

If it was resolved to take no further action, the Notice would remain on the land. Therefore, should the condition of the site deteriorate in the future and warrant action, prosecution for non-compliance could still be pursued.

In preparing this report the Enforcement Officer has considered fully the Implications and requirements of the Human Rights Act 1998

**Planning Officer: Mr M Bale**

**Enforcement Officer: Mrs A Dunford**