

Joint Area Committee - West - 16th September 2009

6. Use of Section 215 of the Town & Country Planning Act 1990

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Purpose of the Report

To inform members on the use of Section 215 of the Town & Country Planning Act 1990.

Recommendation

That members note the limitations placed on action by the relevant legislation.

Background

Members will recall at their meeting on 19th August 2009, the statement given by the Chair of the Mitchell Gardens Residents Association, Chard, encouraging the Council once again to use Section 215 of the Town & Country Planning Act 1990 to address issues relating to Eames Barn that they felt were affecting the local neighbourhood.

Eames Barn is an agricultural barn, located in a field to the west of the Brutton Way housing estate. The barn is situated adjacent to a public footpath, across fields, from the main estate road approximately 100 metres away. The nearest house adjoining the open countryside is approximately 60 metres away.

The barn is used for agricultural purposes including the housing of livestock with an open yard area used for the storage of silage bales.

The complaint refers to the flow of storm water from the fields past the barn, causing a blockage of road drains and flooding to property.

The Enforcement Officer notified the Council's Environmental Protection Unit, Building Control, and Engineers Unit for their consideration. He also attended a site meeting with a representative of the Environment Agency.

The barn is part of a working farm, located at the bottom of a 60 metre high ridge and rainwater runs from this catchment area by the natural fall of the fields, and possibly assisted by the hardened public footpath. The Council has no statutory control in respect of drainage legislation to deal with this matter, but has in the past attempted on a number of occasions to solve the problem at other locations by the formation of embankments and systems to direct the flow of water.

The spillage of water onto a highway is a County Council issue and it may be possible, through the Farming and Wildlife Advisory Group, to work with the landowner to create a bund around the barn to prevent water run off being polluted by passing through the building, or by forming a collection drain across the public footpath.

The Environment Agency representative advised at the site meeting that they do not have any legislative control in respect of the natural weather and ground conditions on this working farm.

The complainant has been advised that this is not a matter for planning control.

JAW

This report seeks to inform members about notices made under Section 215 of the Town & Country Planning Act 1990, and under what circumstances they may be issued.

Section 215 Notice

This legislation states;

“If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of the land in their area, they may serve on the owner and occupier of the land a notice under this section”.

A statutory defence to the Notice is that;

- The condition of the land does not adversely affect the amenity of the area,
- The condition of the land is attributable to, and as such results in the ordinary course of events from, the carrying on of operations or a use of land, which is not in contravention of Part III.

Amenity is a broad concept and not formally defined in legislation or procedural guidance. However, it must be understood that the use of a Section 215 notice is related to planning issues and is not applicable for issues of personal preference, alleged anti social behaviour, or animal welfare.

Conclusion

SSDC Officers already work closely with local members and residents to address any issues of concern and, where possible, work towards an improvement. This will usually involve consideration of a variety of possible actions, depending on the specific issues raised. It is important to note that the use of a Section 215 notice may only be made in the extreme circumstances given above

Background Papers: *None.*
