

**Planning Committee:** 02 February 2011

**Item Number:**

**Application No:** ENF 003/01/11

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**Public Highway outside 31, Dale Street, Leamington Spa, CV32 5HL**

Installation of a 1.6 metre high Openreach broadband cabinet within the public highway outside no.31 Dale Street, Leamington Spa, Cv32 5HL  
Property Owner(s) Openreach

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This matter is being presented to Committee in order to request that enforcement action be authorised.

**BACKGROUND**

In January 2011 it was brought to the attention of the Enforcement Section that Openreach had installed a standard, green painted broadband equipment cabinet measuring 1.6m tall, 1.2m wide and 0.45, at the back of the kerb in front of the railings within the public highway outside no.31 Dale Street, Leamington Spa.

The installation had been the subject of a Notification of Development by Telecommunications Code Systems Operators [W10/1496TC] on 9<sup>th</sup> November 2010 which was refused under delegated powers 21<sup>st</sup> December 2010.

**RELEVANT POLICIES**

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)  
DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)  
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)  
SC9 - Telecommunications (Warwick District Local Plan 1996 - 2011)

**PLANNING HISTORY**

W10/1496TC Broadband cabinet. Refused 21/12/2010.

**KEY ISSUES**

**The Site and its Location**

The site forms part of the footway on the east side of Dale Street in front of a Grade II Listed Building at number 31 which has railings along the front boundary together with some planting in the form of shrubs and hedge. The Dale Street Church is situated on the opposite side of the road. The whole street is situated within the Royal Leamington Spa Conservation Area.

## **Assessment**

The main consideration is the effect of the cabinet on the setting of the Grade II Listed Building at 31 Dale Street and on the special character and appearance of the Royal Leamington Spa Conservation Area.

Telecommunication and Code Systems Operators are required to make every effort to minimise the visual impact and consider less environmentally harmful means of providing the same service.

The cabinet, by reason of its height and overall size, and its siting directly in front of a Grade II Listed Building causes serious harm to the setting of the Listed Building and the character and appearance of the wider Conservation Area.

The installation of the cabinet within the public highway has been approved and licensed by Warwickshire County Council, who are satisfied that the position is appropriate in terms of highway safety.

## **Justification for Enforcement Action**

The cabinet was installed without the approval of the Planning Authority and formal action is now appropriate to resolve this breach of planning control. This will involve the service of an enforcement notice on Warwickshire County Council and the owner of the land in addition to BT Openreach.

## **RECOMMENDATION**

That appropriate enforcement action be authorised directed at the removal of the cabinet with a compliance period of FOUR months to allow time for alternative arrangements to be made to ensure the continuation of services.

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