

PRINCIPAL ITEM NO. 5

TOWN/PARISH: LEAMINGTON SPA

INVESTIGATION NO. ACT332/36/02

CASE OFFICER: MR.M.DUFFETT

LAND FRONTING WOODBINE STREET, REAR OF 11 MILVERTON TERRACE, LEAMINGTON SPA

Condition of the land adversely affecting the amenity of the area – Section 215 Notice

THE SITE AND ITS LOCATION

The site has an open road frontage onto Woodbine Street and originally formed part of the rear grounds of no.11 Milverton Terrace. Woodbine Street is a narrow residential road located between Church Hill and Warwick Place. Immediately opposite the site is a row of two storey terraced residential properties which front directly onto the public highway. The whole of the area is within the Leamington Spa Conservation Area. The western side of the street where the site is located is more open than the eastern side consisting mainly of gardens associated with the more imposing Milverton Terrace residences.

RELEVANT PLANNING POLICIES

As the site and the immediate locality is within the Leamington Spa Conservation Area, the amenity considerations associated with the condition of the land are of significant importance. In the current Warwick District Local Plan, one of the Environment and Conservation Objectives is to protect and enhance the character and appearance of Conservation Areas in the district.

DETAILS OF THE INVESTIGATION

In September 2002, an enquiry was received expressing concern with regard to the condition of the land, in particular the presence of abandoned vehicles, redundant fence panels and assorted materials. The site was inspected and it was noted that there was a small commercial van, a mini-bus and an estate car parked on the land, as well as an assortment of miscellaneous material and that scaffolding had been used to create a barrier across the majority of the site frontage. All the vehicles appeared to be not of roadworthy condition. Vehicular access to the car parking area which serves the flats associated with 11 Milverton Terrace had been kept free from any obstruction.

As there was some concern about the general condition of the land, in particular the presence of the three abandoned vehicles, the owner was contacted. He responded by stating that the vehicles were not in his ownership and appeared to indicate that he was unable to improve the situation. The situation continued to be monitored, and in October 2002, a planning application for the erection of a dwelling on the land (Application W20021379) was received. This application was refused in November 2002, and since then has been the subject of an appeal to the Planning Inspectorate.

On 28 May 2003 the Planning Inspectorate held a hearing with regard to the development proposal which was attended by local residents. The appeal was dismissed on 25 June 2003 because of the *“unacceptably gloomy and limited outlook from the proposed dwelling and by the materially harmful impact it would have on the character and appearance of the Conservation Area.”*

Throughout the period of time from October 2002 to September 2003, the condition of the site has remained the same. None of the abandoned vehicles have been removed, and because the vehicles are not secure there remains the possibility of additional dumping taking place and the use of the vehicles for anti-social behaviour.

In a letter dated 31 July 2003, the land owner was again contacted and reminded of his responsibilities and the possibility of the District Planning Authority serving a Section 215 Notice to address the harm to the amenity of this part of the Conservation Area. There has been no phone or written response to this letter.

Local residents and Councillor Mrs Begg have recently continued to express concern over the appearance of the land, potential dangers associated with its poor condition, and requested some solution to the unacceptable situation.

COMMENT

The land is highly visible in the locality because of its street frontage width, and the proximity of the neighbouring residential properties in Woodbine Street. Apart from a number of planning applications for the development of the open land for a residence, there is no other recent relevant planning history. It is understood that originally there were a number of domestic garages that were placed across the site frontage, but it is some years since these were removed.

All of the vehicles on the land have remained abandoned for in excess of twelve months and this is confirmed by photographs taken during the investigation. The appearance of the site from Woodbine Street continues to be harmful to the amenity of the area because the whole site continues to be dominated by the abandoned vehicles, two of which have missing body panels and one is missing a wheel. The harm to amenity is also because of the presence of the scaffold rail barrier which has also remained in association with the abandoned vehicles. The single rail scaffold barrier does not represent a deterrent to further dumping of material on the land but instead emphasises the unacceptable, untidy condition of the land.

Section 215 of the Town & Country Planning Act 1990 enables a District Planning Authority to deal with any land in their area the condition of which is such that it adversely affects the amenities of any part of their area. In this instance, the site is within a Conservation Area and in close proximity to a number of residential properties. The land owner has had adequate opportunity to tidy the land by removing the vehicles and miscellaneous materials but failed to respond. There are valid amenity concerns which need to be addressed.

In these circumstances, and especially because the unsatisfactory condition of the land has remained for a considerable time there is considered to be reasonable justification to now request that formal legal action be taken against the land owner by serving a Section 215 Notice. The Notice would require the removal of the vehicles and require the provision of a low timber knee rail with timber posts on either side of the access serving the car park of 11 Milverton Terrace to prevent the future mis-use of the land for the abandonment of vehicles.

Any appeal against a Section 215 Notice is to the Magistrates Court, and failure to comply within the given period would also be a matter for the Magistrates Court to consider.

RECOMMENDATION

That the serving of a Section 215 Notice be authorised to protect the character and appearance of this part of the Leamington Spa Conservation Area. The compliance period to be two calendar months.

Background Papers

WDC letter to the owner dated 20 September 2002

WDC letter to the owner dated 31 July 2003