

# **IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY**

TOWN AND COUNTRY PLANNING ACT 1990

(as amended by the Planning and Compensation Act 1991)

## **S215 NOTICE REQUIRING PROPER MAINTENANCE OF LAND**

**Issued to:**

**Issued by:** East Staffordshire Borough Council, The Maltsters, Wetmore Road, Burton upon Trent, Staffordshire DE14 1LS

1. **This is a formal notice** which is served by the Council, under Section 215 of the above Act, because it appears to the Council that the amenity of part of its area is adversely affected by the condition of the land described in paragraph 2 below. The Annex at the end of this notice contains important additional information.

### **2. The land to which this notice relates**

The land known as 5 Carver Road, Burton upon Trent, Staffordshire, DE13 0GQ shown edged in red on the attached plan ("the Land").

### **3. What you are required to do**

As the person responsible for the condition of the Land, you are required to take the following steps to remedying the condition of the Land:

- (1) Permanently remove the wooden trailer and its contents from the site.
- (2) Permanently remove any wood or pieces of wood, glazing or window frames being stored at the site.
- (3) Permanently remove the builder's storage bags, rubbish bags, carrier bags, and their contents from the site.
- (4) Permanently remove the animal trailer and its contents from the site.
- (5) Permanently remove all gas canisters from the front of the site.
- (6) Ensure that the land is kept free of waste material, such as wood, plastic, metal etc.

### **4. Time for compliance**

30 days beginning with the day on which this notice takes effect.

### **5. When this notice takes effect**

This notice takes effect on 11<sup>th</sup> December 2011

Dated: 11<sup>th</sup> November 2011

Signed:

\_\_\_\_\_  
Head of Legal and Democratic Services  
(the Council's authorised officer)

on behalf of: East Staffordshire Borough Council, The Maltsters, Wetmore Road, Burton upon Trent, Staffordshire DE14 1LS

Address to which all communications relating to this notice should be sent:

Aida McManus  
Enforcement Consultant  
Planning Delivery  
East Staffordshire Borough Council  
The Maltsters  
Wetmore Road  
Burton upon Trent  
Staffordshire  
DE14 1LS

*Annex*

**YOUR ATTENTION IS DRAWN TO THE RIGHTS OF APPEAL AGAINST THIS NOTICE contained in Section 217 of the Act. Copies of this Section and of other relevant Sections of the Act are attached to this notice. It is important that you should read them.**

**Extracts from the Town and Country Planning Act 1990 (as amended)**

**Penalties for non-compliance with s.215 notice**

- 216
- (1) The provisions of this section shall have effect where a notice has been served under section 215.
  - (2) If any owner or occupier of the land on whom the notice was served fails to take steps required by the notice within the period specified in it for compliance with it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
  - (3) Where proceedings have been brought under subsection (2) against a person as the owner of the land and he has, at some time before the end of the compliance period, ceased to be the owner of the land, if he-
    - (a) duly lays information to that effect, and
    - (b) gives the prosecution not less than three clear days' notice of his intention,  
he shall be entitled to have the person who then became the owner of the land brought before the court in the proceedings.
  - (4) Where proceedings have been brought under subsection (2) against a person as the occupier of the land and he has, at some time before the end of the compliance period, ceased to be the occupier of the land, if he-
    - (a) duly lays information to that effect, and
    - (b) gives the prosecution not less than three clear days' notice of his intention,  
he shall be entitled to have brought before the court in the proceedings the person who then became the occupier of the land or, if nobody then became the occupier, the person who is the owner at the date of the notice.
  - (5) Where in such proceedings-
    - (a) it has been proved that any steps required by the notice under section 215 have not been taken within the compliance period, and
    - (b) the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of a person specified in a notice under subsection (3) or (4) then-
      - (i) that person may be convicted of the offence; and
      - (ii) if the original defendant also proves that he took all reasonable steps to ensure compliance with the notice, he shall be acquitted of the offence.
  - (6) If, after a person has been convicted under the previous provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding [one tenth of level 3 on the standard scale] for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.
  - (7) Any reference in this section to the compliance period, in relation to a notice, is a reference to the period specified in the notice for compliance with it or such extended period as the local planning authority who served the notice may allow for compliance.

**Appeal to magistrates' court against s.215 notice**

- 217
- (1) A person on whom a notice under section 215 is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds-
    - (a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
    - (b) that the condition of the land to which the notice relates is attributable to, and such as 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;
    - (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or any adjoining area;
    - (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

- (2) Any appeal under this section shall be made to a magistrates' court acting for the petty sessions area in which the land in question is situated.
- (3) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) On such an appeal the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.
- (5) On the determination of such an appeal the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
- (6) Where any person has appealed to a magistrates' court under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

#### Execution and cost of works required by s215 notice

- 219 (1) If, within the period specified in a notice under section 215 in accordance with subsection (2) of that section, or within such extended period as the local planning authority who served the notice may allow, any steps required by the notice have not been taken, the local planning authority who served the notice may-
- (a) enter the land and take those steps, and
  - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

#### NOTE

Attention is also drawn to section 218 which provides for further appeal to the Crown Court, to the remainder of section 219 which contains supplementary provisions as to notices under section 215, and to section 285 which relates to the right to question the validity of such a notice.

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