

**Report for Swale Rural Forum on Local Communities tackling Eyesores.**

This report is to provide information only on the options available under current planning legislation for communities to tackle eyesores within rural and Conservation Areas.

The main weapon for tackling longstanding and indeed any eyesores within these areas from a planning perspective is derived from Section 215 of The Town and Country Planning Act 1990. This section of the Act provides a local planning authority with the power, in certain circumstances, to take steps requiring land etc to be cleaned up when its condition “adversely affects the amenity of the area”, by way of the service of a Notice.

The power to take such action is discretionary, with the failure to comply with the requirements of the Notice becoming a criminal offence prosecutable in the local Magistrates Court.

The scope of a Notice under this section can be wide ranging, tackling planting, clearance, tidying, enclosures, demolition, re-building, external repairs and repainting. It is however most often served when areas of land have become seriously overgrown. An appeal can be made against the service of the Notice, and would be heard by the local Magistrates Court. Once determined, and assuming that the Notice remains in force, a timescale, usually not less than 28 days would require the situation covered by the Notice to be improved.

It is however crucial to consider prior to any such action being taken whether the situation affects the “amenity” of the area. Amenity is a broad concept and is not formally defined in the legislation or any procedural guidance. All cases would be based on “fact and degree” considerations of the specific situation. Each case will therefore be individual, with different areas being potentially treated differently and on their individual merits.

Failure to comply with the requirements of a Notice served under Section 215 can be dealt with in a number of ways or options. The first action to be taken will usually be by way of a prosecution in the local Magistrates Court. Fines for committing an offence are limited to Level 3, and can be up to £1000.

Alternatively, the Local Authority can undertake the work required by the Notice in default by appointing contractors to carry out the necessary work, identified as Direct Works. The costs of undertaking such work immediately becomes a debt due to the Council. If the debt is not paid, the Council can register a charge on the property with H.M.Land Registry. The money secured by the charge will however only be recovered if and when the property is sold.

The Councils administrative costs of undertaking this direct action will also be included as part of the debt, and if not paid, will form part of the registered charge.

This report only deals with the situation under current planning legislation, and alternative options may be available under Environmental Health legislation which have not been covered in this report. It is however essential for reports of potential cases of eyesores etc to be promptly reported to the Council, so that consideration can be given as to what action might be appropriate.