

Section 215 Notice – Enhancing the Environment

T & C Planning Act 1990

When Used

LPA considers amenity of area adversely affected by condition of the land.

Land includes buildings (S.336) (not internal)

The use is discretionary.

Must be in the public interest.

What is Amenity

Not formally defined.

Fact & degree application of common sense.

Condition reasonably expected for permitted use.

Varies from location to location.

Each case on its merits.

Scope of Works

Clearance / tidying of land.

Demolition.

Rebuilding.

External repairs.

Repainting.

Process

Identification & communication with owner.

Letter(s) of intended action.

Service of Notice.

Compliance / Appeal / Prosecution.

Works in default – direct action.

Recovery of costs.

Notice

- Requirements to remedy condition.
- Minimum 28 days before becomes effective.
- Period of time to comply.
- Service on owner / occupier.

Appeal

S. 217 right of appeal to Magistrates Court.

By “offender”.

S. 218 right of appeal to Crown Court.
By either party against Magistrates decision.
Notice of no effect on appeal until determined.
Courts can;
Confirm the notice.
Correct any informality, defect or error (if not material).
Quash the notice.
Vary terms in favour of applicant.

Offence

Section 216
Offence not to comply.
Maximum fine £1000 (level 3).
Continuing offence £100 / day.

Defence

The condition;

- does not adversely affect the amenity of the area.
- is attributable to and results in the ordinary course of events from the carrying on of operations or use of the land.
- the requirements exceed what is necessary for preventing the condition adversely affecting amenity.
- the period to remedy is too short.

Human Rights

Article 8 & Article 1 of First Protocol.
Person entitled to respect for private and family life and peaceful enjoyment of property.

Qualification: set against general interest and protection of rights and freedom of others.

Direct Action

Section 219
Powers to undertake work.
Recover costs from landowner.

Reactive Action.

Response to complaint.
Normally overgrown gardens etc.
Poor condition of buildings.

Proactive Action.

Used in association with:

- Empty homes strategy.
- Regeneration schemes.
- Public / private funded programmes.

Used to encourage creation and maintenance of attractive and successful places to live, work and play.

Partnership Working

Building Control – defective premises.
Listed Buildings – urgent works notice.
Env. Health – abatement of nuisance.

S.215 does not take the place of primary legislation for these services, but can be used in conjunction with action by these services.

Publicity

Manage councillor and public expectations.
Positive use of media articles.
Word of mouth.
Public support.
Magistrates support.
Positive PR.

User Friendly

Simple legislation
Public understanding.
Relatively inexpensive action.
Notices do not need legal preparation.
Not complex prosecution action.

Benefits of Action

Sets standards.
Assists quality of planning applications.
Fewer empty businesses / residential premises.
Increased council tax revenue.
Improved visual appearance of land & buildings.
Improved quality of general environment.
Improved vitality of commercial areas.
Fell good factor for community.

Key to Success

Operate with prosecution in mind.
Clear audit trail.
Use of photos – adverse impact.
Clear, precise unambiguous notices.
Precise time scale.
Reasonable notices = failed appeals
Positive court results.

Conclusion

Can be used both reactively and proactively.
Straight forward legislative power.
Public understanding.
Threat of action often sufficient.
Early action saves costly work later.
Maintains value of property and area.
Positive and tangible improvements.

Use of S. 215 Notices

Enhances the Environment.

Guidance.

T & C Planning Act 1990
Section 215
Best Practice Guidance
2005

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