



## PLANNING COMMITTEE

Date: 20<sup>th</sup> September 2012

### Report of Head of Planning and Building Control

#### 74, 75, Stafford Street, Willenhall (often referred to as Dainty's)

#### 1.0 PURPOSE OF REPORT

To provide the update for Members which was requested at the meeting on 28<sup>th</sup> June 2012.

#### 2.0 RECOMMENDATIONS

2.1 Members note the actions being taken following the reports presented at the meetings on 28<sup>th</sup> June and 26<sup>th</sup> July 2012.

#### 3.0 FINANCIAL IMPLICATIONS

In keeping with the previous report

#### 4.0 POLICY IMPLICATIONS

In keeping with the previous report

#### 5.0 LEGAL IMPLICATIONS

In the event of non-compliance with a Section 215 Notice, a local planning authority may bring a prosecution under Section 216. The fine levied would be 'level 3' which is currently a maximum of £1000 only. However if the work is not then undertaken as quickly as practicable, Section 216 allows for further prosecutions, when a fine can be levied for every day which has elapsed following the first prosecution. The maximum daily fine is £100 per day. Independently of prosecution, Section 219 allows a local planning authority to carry out direct action works in default and recover the costs it incurs. However the use of direct action at this early stage could make it inappropriate to seek compliance through prosecution and application for daily fine.

#### 6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

#### 7.0 ENVIRONMENTAL IMPACT

As in the previous report.

#### 8.0 WARD(S) AFFECTED

Willenhall South

#### 9.0 CONSULTEES

Legal Services

10.0 **CONTACT OFFICER**

Philip Wears

Planning Enforcement Team: 01922 652485

11.0 **BACKGROUND PAPERS**

Enforcement file not published

Planning application BC 44456P

D Elsworthy

Head of Planning and Building Control

**Planning Committee**  
**20<sup>th</sup> September 2012**

## **12 BACKGROUND AND REPORT DETAIL**

- 12.1 The 28<sup>th</sup> June 2012 Planning Committee resolved to confirm the issuing of a Section 215 Notice whilst extending the scope of the delegated powers to allow for additional works and a three-stage compliance period. The 26<sup>th</sup> July 2012 report on confirmed the Notice had been issued on 4<sup>th</sup> July 2012 and would take effect on 6<sup>th</sup> August 2012. It took effect without any appeal to the Magistrates Court.
- 12.2 The first of the three-stage compliance periods expired on 6<sup>th</sup> September 2012. By this date the owners, and also the tenants at the rear where responsible, were required to have completed the following work:-
- At front :- reinstate missing piece of rainwater gutter and down-pipe and treat/clean away algae below
  - remove dangling cloth blind
  - replace the several missing transom level window boards in shop-fronts.
  - remove dirt, algae and flaking paint from the transom level window frames/fascia soffits, and paint bare areas.
  - re-point small area where block-work abuts underneath of transom level windows and paint over poorly painted block-work in shop-fronts
  - temporarily board the 3 first floor windows with dark-grey painted boards having a white border to simulate appearance of window frames
  - At side:- reinstate a valley/gutter and rainwater down-pipe where structural damage from water and vegetation in cracks
  - remove all vegetation and treat chemically
  - At rear :- remove weeds, litter and rubbish next to rear outbuildings
- 12.3 Officers inspected the site on 7<sup>th</sup> September and can confirm that none of the work at the front and sides has been carried out. This is the great majority of the work required. In respect of the single requirement at the rear, there is some uncertainty at the time of drafting this report. Officers will update planning committee verbally.
- 12.4 The previous resolutions of the Committee in 2010 and June 2012 have authorised officers to take prosecution action in the event of non-compliance. Your officers consider that in order to encourage compliance with not just this first stage of the work, but also the second and third stages, prosecution action should take place in respect of the owners. Officers have requested your legal officers to bring this case to the Magistrates Court as a matter of urgency.
- 12.5 If a first prosecution does not bring about compliance your officers intend further prosecutions and applications for a daily fine. If a cycle of prosecutions does not bring about compliance officers intend to pursue direct action works in default, and debt recovery.