**EC12/0013 - Middle Hall, Talbenny, Haverfordwest, Pembrokeshire,**

**SA62 3XA - 2 Static Caravans**

On a routine visit to Talbenny area your Enforcement Officer noted that 2 static caravans had been sited in an agricultural field at the above location. Both caravans appear to have all the facilities to enable them to be used as separate independent units of accommodation. A check of our records revealed the necessary planning approval of this Authority has neither been sought nor given for these caravans to be placed on the land.

A letter and Planning Contravention Notice was served on the owner of Middle Mill Farm on the 31st January, 2012 by registered post.

The notice had to be completed and returned to this Authority by the 22nd February, 2012, however, to date no communication has been received regarding this matter.

In view of the above a further letter was dispatched by recorded delivery on the 28th February, 2012 giving the owner of Middle Mill Farm a further 7 days to complete and return the Planning Contravention Notice.

The letter also informed the owner that failure to complete and return the form was an offence answerable to in the Magistrates Court.

**Recommendation**

As members are aware of the fact that there is no meeting of this Committee in April, 2012, authority is now sought to prosecute the owner of Middle Mill Farm, Talbenny in the Magistrates Court if the necessary Planning Contravention Notice is not completed and returned to this Authority within the time stipulated.

**EC12/0030 - Royal Gatehouse Hotel, White Lion Street, Tenby,**

 **Pembrokeshire, SA70 7ET - Untidy land**

**Background**

At the Development Management Committee of 22 February 2012 members raised concern at the condition of land at the site of the Royal Gatehouse in Tenby. This concern was mentioned in the deliberation of a planning application, reference NP/12/009 which proposed the variation of a condition attached to a planning permission for re-developing the site. Members requested that a report on the matter was brought back to them. It should be noted that under the new delegated powers for enforcement this item would not normally come before members for a decision.

In view of the concern raised by members an officer visited the site on

23rd February 2012 to take note of its current condition. Photographs from this visit are made available to members.

**Scope of Powers**

In deciding whether action can be pursued under Section 215 of the Town and Country Planning Act 1990 (as amended) officers must consider the general amenity of the area and the condition on the land in general. Section 215 (s215) provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears that the amenity of part of their area is being adversely affected by the condition of neighbouring land and buildings, they may serve a notice on the owner requiring that the situation be remedied. These notices set out the steps that need to be taken, and the time within which they must be carried out. LPAs also have powers under s219 to undertake the clean up works themselves and to recover the costs from the landowner.

The use of s215 by LPAs is discretionary and it is therefore up to the LPA to decide whether a notice under these provisions would be appropriate in a particular case, taking into account all the local circumstances. LPAs will need to consider, for example, the condition of the site, the impact on the surrounding area and the scope of their powers. In some circumstances s215 notices may be used in conjunction with other powers, for example, repair notices in respect of listed buildings or dangerous structure notices.

‘Amenity’ is a broad concept and not formally defined in the legislation or

procedural guidance, ie it is a matter of fact and degree and, certainly common sense. Each case will be different and what would not be considered amenity in one part of a LPAs area might well be considered so in another. LPAs will therefore need to consider the condition of the site, the impact on the surrounding area and the scope of their powers in tackling the problem before they decide to issue a notice. Best Practice Guidance on the use of Section 215 (Office of the Deputy Prime Minister, 2005) states that negotiation is an invaluable tool in terms of yielding positive results and is encouraged. It also suggests that suitable warning letters should be sent to the owner and discussion initiated prior to the service of a formal notice.

**Consideration**

Whilst the site is in a general poor condition it is not considered to be in an adverse condition which impacts to an unacceptable degree on the amenity of the surrounding area. The site is bordered by metal hoarding around its main perimeter and whilst it is overgrown within it is not largely visible from public view. The hoarding itself serves a purpose in preventing views into the site and also providing a security measure. This hoarding is in a clean and generally unmarked condition and whilst it has been damaged slightly in parts officers consider it would be difficult to conclusively argue that this is detrimental to surrounding amenity. Furthermore any Notice served would require an action to remedy the harm and its removal would result in far more exposure of the site and impact upon amenity than the current situation.

The buildings at the site have started to fall in to disrepair but are not yet considered to be in a condition which warrants further action. There is an awareness of the history of planning applications proposing development at the site and it would not be considered reasonable to pursue Section 215 action on the above given basis and it is recommended that this case be closed.

**Recommendation**

That no action is pursued under Section 215 of the Town and Country Planning Act (1990) on the basis of the existing condition of the land and buildings.