

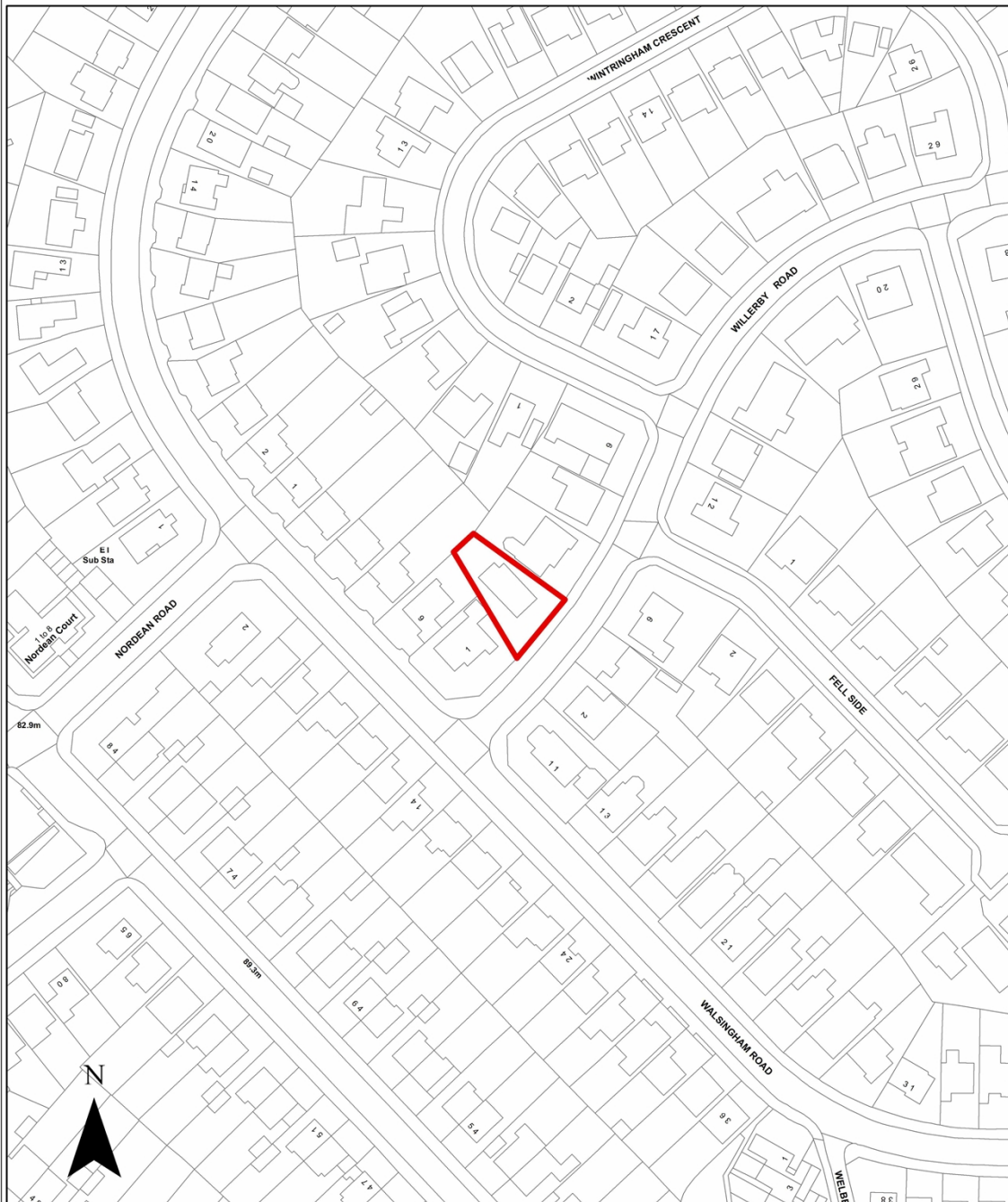


## Planning Enforcement Report for 0058/2019

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Enforcement Reference: 0058/2019

Location  
3 Willerby Road  
Woodthorpe



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.  
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## **Report to Planning Committee**

**Reference Number:** 0058/2019

**Location:** 3 Willerby Road Woodthorpe

**Breach of Planning Control:** Land detrimental to the amenity of the area.

### **1 BACKGROUND**

- 1.1 No. 3 Willerby Road is a detached single storey property situated in a popular residential area. The adjoining property on the south-western side (No 1 Willerby Road) occupies the corner plot with Walsingham Road and its rear garden adjoins part of the side of the subject site. The rest of this side boundary adjoins the rear garden of No 9 Walsingham Road. Willerby Road slopes gently upwards to the north and the northern boundary of the property is shared with No. 5 Willerby Road.
- 1.2 The property was bought by the current owner in 2010 and the owner agrees the property has never been occupied except for the odd overnight stay.
- 1.3 On the 26<sup>th</sup> June 2012 planning permission was granted on appeal for “the alteration of a bungalow with an increase in ridge height of 1500mm and the conversion of the loft into 2 bedrooms with en-suite and storage space, together with front, side and rear conservatories and the widening of the garage”.
- 1.4 The permission commenced with the owner digging the foundations of the extension to the rear of the property and demolishing the existing garage and removing the front porch but no further work was ever carried out.
- 1.5 On the 22<sup>nd</sup> March 2016 the Council received a complaint about the deteriorating condition of the property and the untidy garden. The garden area was tidied at the request of the Council and the file was closed.
- 1.6 On the 13<sup>th</sup> March 2019 the Council again received a complaint about the condition of the property and the fact that the owner appeared to be bringing waste from other sites and depositing in a skip parked at the entrance to the property on the drive way and over the garden.
- 1.7 The site was visited by the Council’s Enforcement Officer. At the time of the visit there was a skip positioned at the entrance to the drive way full of old carpet and

hard core and rubble. The garden was covered with bricks, rubble, wood and other items. The windows, eaves, and guttering of the property were rotting and there were chunks of the render missing leaving holes in the wall of the property allowing water and damp to enter the dwelling. In addition the electricity and gas metres were suspended on an external wall and open to the elements.

- 1.8 A meeting was held with the owner of the property and they admitted that rubble and items from other sites had been brought to the property and tipped over the garden and deposited in the skip. An internal inspection of the property showed that the property was not being lived in and was in a poor condition.

## **2 ASSESSMENT**

- 2.1 The property is situated in a popular residential area and where other properties are well cared for and has been owned by the current owner since 2010. Although part of the front garden is screened by a 2 metre high hedge the drive way has no gates and is open, giving a view from the highway of the front and side garden and of the property which appears very run down and dilapidated.
- 2.2 It can be seen that the front door, windows, soffits and eaves are rotting. Part of the guttering has fallen away and rendering has fallen off the walls. The bricks from the demolished garage are piled up along the side of the house while rubble, bricks and wood is scattered over the front and side garden. This together with a view of a skip on the driveway full of old carpet and rubble is out of keeping with the area and is detrimental to the visual amenity of the occupiers of nearby properties and of visitors walking or driving past the property.
- 2.3 Available action
- 2.4 Section 215 (s215) of the Town & Country Planning Act 1990 (the Act) 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.
- 2.5 There is a right of appeal against the s215 notice to the Magistrates Court. However, very few s215 notices are actually appealed and of those that are only a small proportion are upheld.
- 2.6 If the notice is not complied with Local Planning Authorities have the option of prosecuting the owner for non-compliance or the Authority may carry out the work itself and recover the costs of doing so from the owner or occupier of the site. Experience has shown that each route is equally as successful as the other in terms of outcome. It is for the LPA to decide which is the most appropriate action to take, taking into consideration the details of each

individual case. In some cases LPAs may take the view that both courses should be pursued together. The majority of s215 cases are resolved before these stages need to be considered.

### Human Rights

- 2.7 Under the Human Rights Act, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol to peaceful enjoyment of possessions and the protection of property and under Article 8 of the convention to respect for his private and family life, his home and his correspondence’.
- 2.8 In considering whether to take any enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here the enforcement of planning control in support of National and Local Planning Policies. It is recognised that issuing a s215 notice and taking direct action or commencing proceedings in the Magistrates Court if the notice is not complied with, will result in interference with the recipients’ rights. However, it is considered that issuing a notice in the first instance would be a proportionate response to rectifying the condition of the land.

## **3 CONCLUSION**

- 3.1 The current owner was warned about the condition of the property and land three years ago in 2016 and tidied the garden area but the garden is once again covered in rubble and other items which have been brought from other development sites. The property has continued to deteriorate and is currently inhabitable with no improvements having been made since 2010 when the current owner acquired the property.
- 3.3 The land is detrimental to the visual amenity of the area with views of the site from the public highway
- 3.4 In the circumstances the Council should now issue and serve a s215 amenity notice on the owner.

## **4 RECOMMENDATION**

- 4.1 That the Service Manager, Development Services, be authorised to take all enforcement action including the service of any necessary enforcement notices and in conjunction with the Director of Organisational Development & Democratic Services, proceedings through the courts if required to ensure the front door, windows, soffits and eaves and rain water goods are made good and repainted where necessary or alternatively replaced, any holes in the external walls are filled and repaired, the render is repaired and repainted, all bricks, rubble and wood and other items spread over the front and side garden areas are removed to a point of lawful disposal unless they are consist of materials required for the refurbishment of the dwelling when they shall be stored neatly in an area of the garden which cannot be easily seen from the highway and ensure the removal of any skip required in connection with the improvement of the property within 3 days of it being filled.