

Planning Committee – Wednesday 30 June 2010

Report of the Head of Legal and Democratic Services

Enforcement Item

1. **File/Complaint Number** E102/29/2007
2. **Location of Site** Land at Lower Fyfett Farmhouse, Otterford, Chard, TA21 3QP
3. **Names of Owners** Mr John M Terry and Mrs Susan Bryan-Terry
4. **Nature of Contravention** Non-Compliance with the requirements of an Enforcement Notice dated 21 April 2008

Background

1. On 19 April 2007 the Council received a complaint that an access track and turning area was being excavated across an agricultural field adjacent to Lower Fyfett Farmhouse to serve the rear of the dwelling which is in an Area of Outstanding Natural Beauty.
2. At the Planning Committee meeting on 16 April 2008 the members authorised the service of an Enforcement Notice together with a Stop Notice to prevent any further development at the Site.
3. The Enforcement Notice required the access track to be removed from the Site and the land at the Site be restored to its agricultural use by 12 August 2008.
4. The Enforcement Notice was served but not complied with resulting in the Council taking prosecution action in the Magistrates' Court for non-compliance with the requirements of an Enforcement Notice.
5. During the Court proceedings, Mr Terry applied for planning permission for the access track to serve the dwelling but the application was refused on 26 March 2009 because the driveway appeared to be a visual intrusion and detrimental to the visual amenities of the area, contrary to Somerset and Exmoor National Joint Structure Plan Review Policy 3 and Taunton Deane Local Plan policy EN10.
6. Mr Terry appealed against the Refusal of Planning Permission but the Appeal was dismissed on 1 September 2009.
7. The case for the offence of Non-Compliance with an Enforcement Notice was heard in the Magistrates' Court on Thursday 29 October 2009. Mr Terry pleaded guilty to the charge and was fined £2000 and ordered to pay £50 costs.

8. After the Court proceedings, the Council gave Mr and Mrs Terry a deadline to comply with the Enforcement Notice by 15 February 2010. At the request of Mr Terry, the deadline was extended to 30 April.
9. Mr Terry has advised the Council that he has been unable to secure a contractor to commence the works by 30 April 2010 to remove the unauthorised access track. Apparently he has instructed a contractor but the contractor is unable to advise Mr Terry when he will be in a position to start the works.
10. Mr Terry was subsequently informed that the if full compliance with the Enforcement Notice (i.e. to remove the unauthorised driveway and restore the land to its agricultural use) was not completed by the end of June 2010 then the Council may take direct action under Section 178 of the Town and Country Planning Act 1990.
11. This legislation gives the Council power to carry out physical works on land that should have been carried out in accordance with the requirements of the Enforcement Notice. The Council may enter the land and carry out the operations and recover from the person against whom the notice is enforceable any reasonable expenses incurred in doing so.

RECOMMENDATION

Members are asked to authorise direct action to remove the unauthorised driveway and restore the land to its agricultural use.

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