

## Planning Committee – Wednesday 30 June 2010

### Report of the Head of Legal and Democratic Services

#### Miscellaneous Item

1. **File/Complaint Number** PD/11/A/819
2. **Location of Site** Upcott Farm Cottage, Nynehead, Wellington, Somerset, TA1 4AX
3. **Name of Owner** Mrs Jill Jeffreys
4. **Nature of Contravention** Non-Compliance with the requirements of an Enforcement Notice dated 22 January 2008

#### Background

1. The property known as Upcott Farm Cottage was formerly a barn lying within the site of Upcott Farm.
2. Planning permission was granted for the conversion of the redundant barn into a holiday let in October 1991.
3. The conversion works resulted in an unauthorised increase to the height of the roof. In addition there has been an unauthorised change of use from holiday let to a permanent residential dwelling
4. Mrs Jeffreys' daughter and son-in-law, Mr and Mrs Blanch, and their 3 children are living at the property as their permanent residential dwelling. Mrs Jeffreys has informed the Council that the couple are disabled and they occupy the property with their 3 children who are all aged under 5 years.
5. A Report went before the members of the Planning Committee on 31 October 2007 recommending that because there had been an unauthorised increase to the height of the roof and unauthorised change of use, the Solicitor to the Council be authorised to serve an Enforcement Notice and take prosecution action should the Enforcement Notice not be complied with and the members voted in favour of the recommendation.
6. An Enforcement Notice was served on 22 January 2008 and Mrs Jeffreys lodged an appeal against the Enforcement Notice. The appeal was dismissed on 12 August 2008.
7. Mrs Jeffreys submitted a planning application to change the use from holiday let to a dwelling and alter the roof. The application was refused on 8 July 2009.
8. Criminal Proceedings were commenced in the Taunton Magistrates' Court on 14 July 2009 for the offence of Non-Compliance with an Enforcement Notice under Section 179(2) Town and Country Planning Act 1990. The trial date of

the case is 13 September 2010. A barrister has been instructed to represent the Council at the trial.

9. Mrs Jeffreys appealed against the refusal of planning permission. The Planning Inspector allowed the appeal on 18 June 2010 insofar as it enables the current occupants, Mr and Mrs Blanch and their 3 children, to remain living at the premises. Planning Permission was granted for the change of use from holiday accommodation to a dwelling only for the occupation of Mr and Mrs Blanch and their resident dependents and alteration to the roof.
10. In accordance with the Code for Crown Prosecutors (which apply to prosecutions taken by local authorities), review of cases is a continuing process and prosecutors must take account of any change in circumstances that occur as the case develops.
11. As a consequence of the Planning Inspector's decision of 18 June 2010, it is no longer considered to be in the public interest to continue with the current criminal proceedings against Mrs Jeffreys whilst Mr and Mrs Blanch and their children remain at the property.

## **RECOMMENDATION**

It is RECOMMENDED that whilst Mr and Mrs Blanch are residing at the property, the Solicitor to the Council be authorised to apply to the Magistrates Court to withdraw the current legal proceedings against Mrs Jeffreys because it is not in the public interest to continue with the prosecution.

CONTACT OFFICER Maria Casey 01823 356413 or  
m.casey@tauntondeane.gov.uk