

PLANNING COMMITTEE - 28 November 2012

Miscellaneous Item

Report of the Legal Services Manager

Proposed withdrawal of an Enforcement Notice of the 8 August 2011 served in respect of plots numbered 1 and 3 on land to the west of Bishop's Hull Road Taunton

Background

On the 8 August 2011 two enforcement notices were served in respect of the two above plots which had been constructed at Persimmon's Bishops Hull site otherwise than in accordance with the approved plans. Plot 1 had been constructed with hanging tiles to the front elevation and Plot 3 had had a half timbered/herringbone design on the front elevation. An appeal against the enforcement notice was unsuccessful

Following the refusal of the appeal, the notice was not complied with and the Committee resolved to prosecute the developer, even though the properties were by that time occupied by new owners. Representations were received from Solicitors acting on behalf of the developer, arguing that had the works been done once the owners were occupying the property, the works enforced against would have been permitted under Permitted Development rights.

Further undertakings were received that the Developer would, if required comply with the notice although they would immediately re-instate the finishes to the two elevations under Permitted Development Rights.

Having considered the position the Committee at its meeting on the 27 June 2012 resolved that the prosecutions in respect of plots 1 and 3 should not proceed as it was not in the public interest to do so.

The current position

That resolution however meant that the enforcement notice in respect of plots 1 and 3 (now numbers 1 and 5 Quarty Drive) remained in force. Whilst the Council has resolved not to prosecute for the failure to comply with the notice and has not resolved to do the works in default, there are nevertheless likely to be difficulties when the current owners come to sell.

They have therefore approached the Council with a request that the notices be formally withdrawn, on the basis that the works could now be carried out under Permitted Development Rights and it is inequitable that the house owners should be penalised when the Council has resolved that it is not in the public interest to take action against the developer.

It is considered that no purpose is now served by the retention of the notices.

RECOMMENDATION

It is therefore recommended that the enforcement notice served on the 8 August 2011 in respect of plot 1 and plot 3 on land to the west of Bishops Hull Road Bishops Hull (now numbers 1 and 5 Quartly Road) be withdrawn.

Legal Services Manager

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