

Taunton Deane Borough Council

Planning Committee – 27 June 2012

Report of the Legal Services Manager

Enforcement Matter

Failure to comply with Enforcement Notices served in respect of Plots 1, 3, 54 and 41 on Persimmon site to the west of Bishop's Hull Road

Background

Members will recall that when Persimmon developed the site to the west of Bishop's Hull Road, Taunton four properties were built using unauthorised materials. These issues have been reported to the Committee on two occasions.

Meeting of 8 August 2011

The Committee authorised the services of enforcement notices in respect of plots 1 and 3 requiring the unauthorised facades to be removed and replaced with approved materials. There was a subsequent unsuccessful appeal against a refusal of planning permission for the same works. The enforcement notices subsequently took effect but were not complied with.

Meeting of 8 February 2012

The Committee were advised of this fact at the meeting and resolved to prosecute the owners of plots 1 and 3 for non-compliance with the notices. It should be noted that, by that time, plots 1 and 3 had been sold to individual owners and Persimmon could not be prosecuted.

The Committee were also advised that two further properties, Plots numbered 41 and 54 had also been built other than in accordance with approved materials, and it authorised the service of two enforcement notices in respect of those two plots. These notices were served and should have been complied with by 4 June 2012. The notice relating to Plot 41 which remained in the ownership of Persimmon has now been complied with. The one relating to Plot 54 which is now owned by an individual has not.

The resolution to prosecute

Following the resolution to prosecute, the Council received representations from solicitors acting on behalf of Persimmon saying that the works to the buildings constitutes permitted development and therefore prosecution was not appropriate. Whilst it was accepted by the Council, and had been accepted by the Inspector on appeal, that had the houses been completed the properties could have been altered to the current façade under permitted development rights, the current facades were unauthorised and therefore could be both the subject of enforcement action and

prosecution. The officers were therefore not minded to report the matter back to the Committee.

There were then subsequent discussions between the owners of Plots 1 and 3 and Persimmon, since the owners rather than Persimmon were under threat of prosecution. Persimmon therefore agreed that they would remove the existing facades and immediately replace them with like, in order to prevent prosecution of the owners. Officers were advised of this position and asked again to consider bringing the matter of prosecution back to the Committee for re-consideration, suggesting that the Council's requirement would look nonsensical to the average man in the street.

However, officers felt Members would require greater commitment to do the works from Persimmon and the owners. Persimmon have now supplied an undertaking to comply with the notices by the end of August, if required. The owners of Plots 1 and 3 have consented to these works being done.

Persimmon and the two plot owners have asked that in the light of the above commitments, the decision to prosecute be reviewed.

Consideration

A balance needs to be drawn between showing the Council will follow through on enforcement action, to maintain its credibility, and the need to avoid taking action which to the general public will be perceived as costly and achieving nothing. The entire front of both properties would need to be removed and the intention is to replace like with like, as this is what the owners want. In those circumstances it would not seem in the public interest to proceed with the prosecution. It should be noted that Persimmon has complied with the Notice on Plot 41.

On balance therefore it is considered that the earlier resolution to prosecute the owners of Plots 1 and 3 should be rescinded and no further action taken against the owner of Plot 54.

Legal Services Manager

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