

## **Planning Committee - 23 May 2007**

### **Report of the Chief Solicitor**

#### **Miscellaneous Enforcement Item - Hunter's Cottage, Hemyock Place, Monument Hill, Wellington**

##### **Background**

At the meeting of the Planning Control Sub-Committee on 26 April 2000, Members resolved to take enforcement action in respect of unauthorised works at Hunter's Cottage. A notice was served requiring the removal of two windows and the facing off of a wall which formed a boundary with an adjacent property, Hemyock Place.

The notice was served on the 18 July 2000 and was subsequently upheld in part on appeal in 2001, in that there was still a requirement to face off the breeze block wall forming part of an extension adjacent to Hemyock Place.

Unfortunately the owner of Hunter's Cottage was unable to reach agreement with the owner of Hemyock Place to enter on to his land in order to carry out the works. The owner of Hunter's Cottage was subsequently prosecuted for failing to do the works required by the notice but was found not guilty by the Magistrates Court who found that he had not been able to do the works because the conditions imposed by the owner of Hemyock Place in respect of entry on to the land were unreasonable. Since that time therefore the works have remained undone and a fence has been erected at Hemyock Place to "hide" the breeze block wall.

Recently however, Hunter's Cottage has been put on the market and the outstanding enforcement notice has had an adverse impact on the potential sale price of the property - the owner suggesting that the depreciation in value is in the region of £100,000. The owner states he has remained willing to carry out the works but has been unable to do so as he has not been able to reach agreement with the owner of Hemyock Place. His solicitors have therefore approached the Council to ask the Council either to:-

- Withdraw the enforcement notice to enable the property to be sold unencumbered, or
- To carry out the works itself under the provisions of the Town and Country Planning Act and to recover the costs from the owner, which he has indicated that he is prepared to pay.

The owner of Hemyock Place has indicated that whilst he is unwilling to allow the present owner of Hunter's Lodge to enter his land to do the works other than subject to strict conditions, he may be prepared to allow a subsequent purchaser access for the purpose of facing off the wall.

It therefore appears that the enforcement notice is not being complied with as a consequence of a dispute between the two neighbours, which is in effect a civil matter. With the prospect of matters being resolved once the property is sold and the enforcement notice being complied with, it is not considered that the Council should become involved in what is effectively a neighbour dispute.

### **Recommendation**

It is therefore recommended that no further action be taken at the present time either in respect of taking direct action or withdrawing the enforcement notice relating to Hunter's Cottage.

Chief Solicitor

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