

Planning Committee – 13 December 2006

Report of the Chief Solicitor

Enforcement Item – 15 Eastbourne Gate, Taunton

Background

1. At the meeting of the Committee on the 1 November 2006 Members received a report on the outcome of injunction proceedings taken in respect of an unauthorised dormer at the above address. Members were advised that the application had failed.
2. The Court had made the following findings:-
 - (i) The owner had genuinely believed that he did not need planning permission for the dormer roof; and
 - (ii) The cost to the owner of carrying out the work and the consequent loss would be in the region of £40,000 which the Court found to be disproportionate given that the owner was a householder of modest means.
3. The owner has subsequently requested that in the light of the Court's judgment the Committee should consider withdrawing the enforcement notice.

The present position

4. The effect of the Court's decision is that in practice no further action can be taken against the current owner.
5. However, whilst the notice remains in force it will be binding on any subsequent purchaser. If the property were to be sold therefore the price would need to reflect the cost of removing the dormer and re-instating the roof. Even if a purchaser were to be found in such circumstances, the Court has found the level of loss to the current owner to be disproportionate.
6. In such circumstances it therefore does not appear to be expedient to continue to pursue enforcement action.
7. The original complainant was a neighbour who has since moved away from the area. No other complaints have been received.

Recommendation

It is therefore recommended that the enforcement notice served in respect of the unauthorised dormer at 15, Eastbourne Gate, Taunton be withdrawn.

Chief Solicitor

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