

**Enforcement of Planning Control
Enforcement Item for Consideration:
No.1 & No. 2 Manor Farm House, Oby**

Report by Planning Officer (Compliance and Implementation) and Historic Environment Manager

Summary: This report concerns unauthorised work to a Grade 2 listed building.

Recommendation: That members note and endorse the contents of this report.

Location: Manor Farm House, Manor Farm Road, Ashby with Oby

1 Background

- 1.1 In 2010 unauthorised work comprising the replacement of the windows and doors of the property with uPVC units was identified. This was then followed by a prolonged period of negotiation between the Authority and the owner, protracted due to the difficult personal circumstances of the owner.
- 1.2 A subsequent report on the 17 August 2012 was brought to this Committee seeking authority to serve a Listed Building Enforcement Notice if voluntary compliance could not be achieved. This was agreed by members.
- 1.3 Following this resolution, voluntary compliance was sought from the owner with officers attempting to agree a phased schedule of replacement for the windows and doors.
- 1.4 At this stage the owner stated that they intended to apply to English Heritage to have the building removed from the Statutory List despite receiving informal officer advice that this was unlikely to be successful.
- 1.5 Some six months later and not having received notification from English Heritage that an application for de-listing had been sought, Officers again contacted the owner. Officers were then informed that the owner was seriously ill and the negotiations were once again suspended temporarily.
- 1.6 In October 2013 the Authority again contacted the owner and received a letter in response stating that the owner's health had not improved.
- 1.7 Given the very particular sensitivities and set of circumstances surrounding this case, Officers have sought legal advice regarding the possible mechanisms to secure a resolution of this breach, including how a charge can

be registered on the property to ensure that the breach is formally recorded going forward.

- 1.8 That legal advice has now been received and suggests the formal service of an enforcement notice with a long period for compliance to take into account the circumstances would be the most appropriate, justifiable and proportionate course of action in this case.
- 1.9 The LPA was advised that the windows and doors of the Farmhouse were replaced about 13 years ago due to their poor condition. The owner says that while she was aware of the building's listing, she did not appreciate that permission was required to replace the windows and doors.
- 1.10 The owner has been advised that any retrospective application for the current windows and doors is unlikely to be successful and that they would need to be replaced with units of a design and construction agreed by the Authority.
- 1.11 Unauthorised works to a listed building is a serious, indeed criminal, matter and it is not acceptable for the matter to be deferred indefinitely. It is now considered that an adequate period of time has past since the Authority's initial contact with the property owners and it is necessary to resolve the situation. Given the property owners' previous reluctance to engage with the LPA in addressing the situation, albeit that there have been particular extenuating circumstances, it is now considered that formal enforcement action should be instigated should voluntary compliance not be achieved.
- 1.12 Members of the Heritage Asset Review Group (HARG) discussed this matter at their meeting on the 8 November 2013 at which time it was recommended and decided that although the Planning Committee have previously agreed the serving of a formal listed building enforcement notice that this matter be referred back to Planning Committee for resolution.

2 Policies

2.1 Development Management Policies DPD (2011)

DP5 - Historic Environment

New development will be expected to protect, preserve or enhance the fabric and setting of historic, cultural and architectural assets that give the Broads its distinctive character.

Development that would affect a Heritage Asset, including a Listed Building, Conservation Area, Registered Park and Garden, Scheduled Monument or its setting, or a locally listed asset, will be considered in the context of national policy (currently PPS5), having regard to the significance of the asset. Harm to or loss of significance to a Designated Heritage Asset will only be permitted in exceptional circumstances.

Proposals for development on sites that are of known or suspected archaeological interest must be accompanied by an archaeological field evaluation that determines the significance of the archaeological remains and

assesses the implications of the development on these remains. Development that would adversely affect important archaeological remains will only be permitted where:

- (a) The benefits of the development outweigh the harm to the remains and the value of retaining the remains in situ;
- (b) The degree of disturbance has been minimised; and
- (c) Satisfactory provision is made for the evaluation, excavation, recording and interpretation of the remains before the commencement of development.

Where development can take place and still preserve important features in situ, planning conditions will be sought to secure the implementation of effective management plans that ensure the continued protection of those features.

3 Description of Site and Development

3.1 The description on the historic buildings register is as follows:

'Farmhouse dated 1622 but has been re-faced and greatly altered in the late 18th Century. Colourwashed brick with roof of black glazed pantiles. 2 storeys in 4 bays. 2 doorways. Door to right is within doorcase of pilasters supporting simple entablature. Rectangular overlight. Sash windows with glazing bars and gauged skewback arches. Over main door is a round-headed window. Timber eaves cornice and gabled roof. Central ridge stacks and internal gable end stacks'

3.2 The Farmhouse building was subdivided into two dwellings about 50 years ago. There is no record that would suggest that planning permission was ever gained for this subdivision or listed building consent for the internal alterations to facilitate the subdivision. The time that has elapsed since this work now excludes the subdivision from enforcement action. However the work as regard Listed Building consent has no such time limit although enforcement action against this particular alteration is not considered expedient.

3.3 The windows and doors were replaced by the current owner in two phases around 1999. This work has been undertaken without the benefit of Listed Building Consent.

3.4 The replacement windows and doors are of a design and construction that is out of character with this Grade 2 listed building.

4 Action Proposed

4.1 It is proposed in the first instance to contact the property owner again and to inform her of the Broads Authority's intention to serve a Listed Building Enforcement Notice and to explain the Authority's position in doing so.

- 4.2 It is then proposed that the owner of the buildings should be served with a Listed Building Enforcement Notice requiring the removal of the unauthorised windows and doors and their replacement with windows and doors of an agreed design and construction.
- 4.3 In consideration of the high costs involved in the replacement of the windows and the personal circumstances of the property owners, it is proposed that a period of compliance of 10 years is appropriate in this instance.

5 Financial Implications

- 5.1 There may be legal costs associated with this course of action.

Background papers: Broads Authority DC Enforcement File BA/2010/0071/UNLBP1

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Appendices: APPENDIX 1 - Site Map

APPENDIX 1

