

# Agenda Item 12

**Forward Planning**  
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## Report

**Report subject:** The Barn Adjacent to the Manor House, Winterbourne Gunner

**Report to:** Northern Area Committee

**Date:** 17 November 2005

**Author:** Elaine Milton

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### URGENT WORKS NOTICE FOR THE BARN NORTH OF MANOR HOUSE, WINTERBOURNE GUNNER

#### Report Summary:

At its meeting on 20 October 2005, the Committee resolved that no further action be taken in prosecuting the Urgent Works Notice until the next meeting of the Northern Area Committee, to allow for a full report detailing the history of the barn and options for future action to be put before members for their consideration. Although much of the information contained within this report has been reported previously, it is outlined once again below to assist Members with the discussion.

#### The History of the Barn:

The barn to the north of the Manor House was added to the Statutory List of Buildings of Special Architectural or Historic Interest as a Grade II listed building on the 29 May 1987, together with the Manor House, large granary and small granary. The buildings were noted for their group value. The barn, which dates from the early to mid-Seventeenth Century, is timber-framed and weatherboarded, and has a thatched roof.

According to the owner, the last real use of the barn was as a milking shed in the 1930s and since then it has only been used for low-level storage.

A chronology of events is attached as Appendix 1 highlighting the key points relating to the barn since it's listing in 1987 to 2004. Since 2004, the conservation officers have repeatedly tried to encourage the owner, Mr Bruce-White, to discuss ways of securing the long-term future of the building with the Planning Office, but without success.



*Awarded in:*  
Housing Services  
Waste and Recycling Services



Cllr Westmoreland had provided a chronology at the last meeting of the Northern Area Committee (a copy is attached as Appendix 2). Mr Bruce-White has supplied correspondence to back-up the chronology, however, it should be noted that the author cannot verify some of the items on this list through the correspondence: These include:

- that Salisbury District Council advised Mr Bruce-White to explore agricultural use for the building in 1988;
- that there was application for enabling development in 1991-2;
  
- that there was a warning by Salisbury District Council that starting work would “void EH application” in 1995;
- that Salisbury District Council refused an application for enabling development in 1995;
- that Salisbury District Council advised Mr Bruce-White to apply for delisting;
- that there was an approach to Salisbury District Council in March 2004 regarding enabling development.

Despite the seemingly large number of discussions and correspondence that has taken place over the last 18 years, the single fact remains that no repairs have been undertaken on the barn and so, unsurprisingly, it is now in a very poor state – most of the thatched roof covering has gone and consequently water is pouring in.

The owner requested that the Department of Culture, Media and Sport delist the barn and the larger granary in 2003. The larger granary was subsequently delisted on the basis that little historic fabric remained, however the Inspector concluded that the barn, even in spite of its deteriorating condition, was still essentially complete enough to merit being listed.

Still unwilling to repair the building, the owner applied for listed building consent in 2004 to demolish the barn but this was refused as being contrary to local plan policy. Objections to the demolition were received from English Heritage and the Society for the Protection of Ancient Buildings (SPAB). A copy of the response received from the SPAB is attached as Appendix 3, lending their support to the local authority in utilising its powers to serve an urgent works notice.

Since this time, no repair or basic maintenance work has been undertaken and so the barn has continued to deteriorate and is now in a very vulnerable state. The building was flagged up as a ‘building at risk’ in the recently completed survey of listed buildings in the district. Nor has the owner commissioned any recent surveys into what it would cost to repair the structure. Given the reluctance of the owner to repair the barn, the failure of the listed building consent application for demolition and the building’s high priority on the recently completed survey of listed buildings ‘at risk’, the Council directly commissioned a report from a structural engineer.

The engineer was asked to comment on whether the barn could be repaired, whether there was an imminent threat to the barn and if so, to provide a specification for some urgent ‘temporary’ repairs to ensure the retention of the building. A copy of his report was sent to the owner with a request that he implement the temporary repairs included in the specification: the owner failed to carry out the work.

A report was made to this committee on 3<sup>rd</sup> May 2005 seeking authority to serve an Urgent Works Notice – this would be a notice giving the owner at least 7 days’ notice that the Council intend to instruct contractors to carry out urgent repair work. The matter was deferred to the 2<sup>nd</sup> June 2005 meeting, to enable Members to carry out a site visit. The committee resolved to serve the Urgent Works Notice at the meeting on 2<sup>nd</sup> June.

An update was provided to committee on 28 July 2005, stating that Mr Bruce-White had alleged that barn owls were nesting in the barn, which could have prevented the urgent works being carried out. An expert from the Hawk and Owl Trust reported to the council on 3<sup>rd</sup> August, confirming that barn owls had been nesting. His advice was that it would be safe to commence the urgent works from 24 August 2005, by which time the owls would have fledged their nest.

The advice received from Legal was that the urgent works notice should not be served until there was a real prospect that the urgent works could have been carried out, i.e. until there was no impediment to carrying out the works. Thus the notice was not served until Friday 26<sup>th</sup> August 2005.

The urgent works notice stated that the council would carry out the schedule of works some time after 7 days from the date of the notice. The contractors (Ian Payne Ltd) had been on standby to do the work for several months, and the earliest date that they could get the scaffolding erected was Thursday 15<sup>th</sup> September. This date was booked with Ian Payne and works were due to commence then; however, following service of the notice a fax was sent by Mr Bruce-White via Legal Services on 9<sup>th</sup> September, saying that he required a detailed structural report for the barn in order that he could obtain competitive quotes for doing the work himself. The council replied to Mr Bruce-White on 14<sup>th</sup> September 2005: this basically stated that the council does not have the type of detailed information that Mr Bruce-White is requesting, and that he would need to obtain his own structural engineer's report if he feels that is what is required. Since he indicated that he might be prepared to carry out the work, Mr Bruce-White was given until 29<sup>th</sup> September to do the work to our satisfaction, or else the council would instruct the contractors to go in and do the work.

A further update was provided at the meeting on 20<sup>th</sup> October 2005 at which it was reported that the building was inspected on 29<sup>th</sup> September, and it appeared that the work had not been done.

The contractors were instructed to commence work on 17<sup>th</sup> October 2005, this being the earliest available date that the scaffolding could be provided. The council wrote to Mr Bruce-White informing him of this.

The contractors turned up at the Manor House to carry out the urgent works as informed on 18<sup>th</sup> October 2005. The scaffolding was partly erected before Mr Bruce-White told the contractors they would have to leave the site.

The council obtained an entry warrant immediately on the 18<sup>th</sup> October from the Magistrates' Court under Section 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990. This permits Elaine Milton and any contractor or agent authorised by her, entry onto the land in order to carry out the urgent works (N.B. The warrant is only valid for one month, and therefore expires on the 18<sup>th</sup> November).

A letter was sent to Mr Bruce-White first class on 18<sup>th</sup> October informing him that a warrant had been obtained, and that unless he agreed to access being given that the powers of the warrant would be invoked. His failure to comply with any warrant could result in criminal prosecution.

### **Options for the Barn:**

Having served the Urgent Works Notice the options available to the council are as follows:

- (a) Take no further action. The implications of this are that the barn would almost certainly collapse in the very near future. The structural engineer acting for the council has written a letter, attached in Appendix 4, which states that in his professional opinion the barn is now close to collapse. If this happens the council will lose a listed building: It will either cease to exist or will be delisted.

The costs of this to the council are primarily the loss of the listed building itself, and the bad publicity that is likely to arise due to the council's inaction. There would also be the direct costs of the structural engineer's fees for surveys and reports, the cost of the abortive works carried out to date, and the cost of time spent by the conservation officers and the legal section in pursuing the matter.

Members should be aware that the Council will be open to a complaint of maladministration if having authorised the service of an Urgent Works Notice it takes no steps to pursue it: The Council would have to show that it was justified in taking no further action.

Equally the Council will be open to a complaint of maladministration by Mr Bruce White if it could not show that the original decision to authorise the service of an Urgent Works Notice was justified.

or

- (b) Pursue action with the urgent works notice. The contractors are still on standby to carry out the work, so the building could be shored up and the roof covered within the next few weeks. This would ensure its preservation for the short-term at least, enabling discussions to take place regarding the longer-term repairs and preservation of the building: One of the purposes of an Urgent Works Notice is to prevent further deterioration of a listed building while its long-term future is discussed and secured. The future maintenance of the building obviously depends on finding an economic use for the building in order to fund this. The likelihood of major repairs being carried out very much depends on the willingness of the owner to pursue a viable use for the building, and to actively seek sources of funding to repair the building.

Once the urgent works are carried out, a further notice would be served to claim back the cost of the work from the owner, including the reasonable costs incurred by the council.

In terms of assistance for the owner with the cost of the works, he would be eligible for a modest grant from the Council towards the cost of repairs, and the SPAB has also indicated it would be prepared to consider some grant aid.

The Department for Environment, Food and Rural Affairs (Defra) may be able to assist with the long-term repairs of the building (N.B. the regional Defra advisor has been contacted and he has indicated to the conservation team that there may be up to 80% funding for repairs to the building via the Environmental Stewardship Scheme. This would involve the owner entering into a management agreement for the land; it would not, as has been suggested previously, mean that the land would be "signed over" to Defra.)

Previous discussions have arisen with regards to enabling development. There is a policy in the local plan regarding this: Policy G10 states that enabling development proposals will only be considered in very special circumstances. It doesn't specifically limit enabling development to facilitate the repair of Grade I or II\* listed buildings, but because of the issue of exceptionality this is usually how the policy is applied. Officers remain prepared to consider any proposals for enabling development from the owner. Members should be aware that by its very nature, enabling development involves a relaxation to other planning policies.

#### **Code of Conduct matters:**

Members are reminded that the presence of any pre-determination or bias qualification of and member of the Committee who participates in the consideration of this matter at Committee will render the decision of the Committee unlawful. Similarly the presence of any personal and prejudicial interest. And any member having such an interest would also be open to a complaint to the Standards Board.

#### **Recommendations:**

It is recommended that option (b) should be followed, and that the contractors be lined up to carry out the urgent work as soon as possible.

#### **Background Papers:**

Previous committee report attached.

#### **Implications:**

- Financial: The cost of the urgent works would be approximately £18,000, which would be paid for by the council, and subsequently recovered from the owner.
- Legal: in the report.

- Human Rights: Any interference with owner's property rights would be justified under the situation as balanced against the requirements of the legislation pertaining to listed buildings.
- Personnel: N/A.
- Community Safety: N/A.
- Environmental implications: N/A.
- Council's Core Values: Being environmentally conscientious.
- Wards Affected: N/A.

DATE	
20 May 87	Listed – together with Manor House, large granary, small granary.
29 June 87	Letter from Woolley & Wallis to Mr Bruce-White. Advice regarding delisting the barns, particularly one mentioned as being structurally unsound.
02 June 88	Letter from ADAS to Planning Office seeking views on potential use. No record of reply.
13 Dec 88	Letter from ADAS to Mr Bruce-White stating Architects at West Kennet Farm, Avebury indicate barn would not be required for resiting for their development.
13 May 94	Structural report on barn from Phoenix Carpentry and quote for repairs of £10,000. Quote from IW Payne for repairs c. £34,000.
15 March 95	Letter from EH. May be willing to offer grant assistance, but seeking clarification on any discussions with LPA on enabling development. EH structural engineer consider barn capable of repair and detailed Programme of work required before consideration of grant application.
22 March 95	Letter from Planning Office. Development on land north of Portway (opposite entrance to Manor Farm) and land between Manor Farm buildings and Portway adjacent to entrance drive – as ‘enabling’ not considered appropriate as major departure from local plan that could not be justified.
23 May 95	Letter from EH. No funds left.
23 March 97	Estimate for rethatching c. £22,000
29 January 02	Mr Bruce-White spoke to David Piggott, Conservation Officer to advise him that he would be seeking delisting of barn and granary and advised if unsuccessful would be seeking listed building consent for demolition. DP to arrange a meeting with EH to discuss possibility of grant aid for repairs.
23 May 02	Letter from DP to EH following consultation re delisting. DP said because granary collapsed and barn unsafe he would support delisting.
10 June 03	Notice from DCMS that large granary delisted, but that barn still on list.
08 Nov 04	LB application for demo of barn. Refused 21 Dec 2004 – contrary to Policy CN3. Insufficient supporting information has been provided to justify treating application as exception to policy.

## Report to Northern Area Committee 2<sup>nd</sup> June 2005

### **URGENT WORKS NOTICE FOR THE BARN NORTH OF MANOR HOUSE, WINTERBOURNE GUNNER**

#### **Report Summary:**

The report outlines the condition of a barn described as 'The barn north of Manor House and attached stores, Winterbourne Gunner' and explains the powers available to the Council in ensuring the preservation of this Grade II listed building.

#### **Introduction:**

The large barn was added to the Statutory List of Buildings of Special Architectural or Historic Interest as a Grade II listed building on the 29 May 1987. The building dates from the early to mid Seventeenth Century. It is timber framed and weatherboarded on brick sills with a thatched roof. The building forms part of a group of farm buildings, including a small listed granary (listed grade II), a delisted and collapsed larger granary (delisted in 2003 at the request of the owner), the grade II farmhouse known as Manor House and some unlisted barns. The Granary is noted in the list entry for its value to the group. The building was flagged up as a 'building at risk' in the recently completed survey of listed buildings in the district.

The owner has informed us that this barn was last used as a milking shed in the 1930s and has been unused (except for low level storage) since that date. It is also understood that the last time the barn was thatched was in the mid 1980s, when the thatcher informed the owner that it would not be possible to re-thatch the barn again in the future without some structural works being undertaken. During the 1980s and 1990s the owner commissioned various reports into repairs, investigated grant opportunities (ADAS and English Heritage) and contacted the planning department about enabling development possibilities, however, none of this resulted in undertaking any repairs to the barn. No repairs have since been undertaken and so, unsurprisingly, the barn is now in a very poor state – *most of the thatched roof covering has gone and consequently water is pouring in.*

The Council has known of the deteriorating condition of the barn for some years. During discussions, the previous Conservation Officer recommended that the owner request the delisting of the barn. This avenue was pursued by the owner and the larger granary was subsequently delisted in 2003 on the basis that little historic fabric remained. *However the Inspector concluded that the larger barn (barn north of Manor House), despite its deteriorating condition was still essentially complete and still merited its listing designation.* This barn was not delisted and therefore remains on the statutory lists. *Still unwilling to repair the building,* the owner applied for listed building consent in 2004 to demolish the barn but this was refused. Objections to the demolition were received from English Heritage and the Society for the Protection of Ancient Buildings.

Since this time, no repair or basic maintenance work has been undertaken and so the barn has continued to deteriorate and is now in a very vulnerable state. Nor has the owner commissioned any recent surveys into what it would cost to repair the structure. *Given the reluctance of the owner to repair the barn, the failure of the listed building consent application for demolition and the building's high priority on the recently completed survey of listed buildings 'at risk',* the Council has directly commissioned a report from a structural engineer.

*The engineer was asked to comment on whether the barn could be repaired; whether there was an imminent threat to the barn and if so, to provide a specification for some urgent 'temporary' repairs to ensure the retention of the building.* A copy of his report has been sent to the owner with a request that he implement the temporary repairs included in the specification. It has been explained to him that if he does not, the Council will consider serving an urgent works notice. In terms of the cost of the urgent works, the owner would be eligible for a modest grant from the Council towards the cost of repairs and the Society for the Protection of Ancient Buildings has also indicated it would be prepared to consider a modest grant. DEFRA also offers grants towards the repair of historic buildings under their various schemes and the owner may be eligible for financial support through this avenue. If the owner is unwilling to undertake the repairs, then the

Council may wish to serve an Urgent Works Notice in order to secure the survival of this listed building.

### **The Proposal:**

Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables local authorities to serve Urgent Works Notices for the preservation of listed buildings. These powers are confined to emergency repairs, for example to keep the building wind and weatherproof and safe from collapse.

*The structural engineer who inspected the barn on behalf of the Council is of the view that sufficient historic fabric survives to justify the full repair of this barn. His report notes, however, that some temporary works need to be undertaken as soon as possible as the building could collapse at any time, and he has therefore provided a specification for temporary support, which would be consistent with the objectives of Section 54 (see Appendix 1 for Engineer's specification).* The work specified is for the internal bracing of the barn, externally scaffolding to the eastern and northern elevations, removing the thatch to the aisle and repairs to the aisle and covering the roof with plastic sheeting (from a cherry picker). These works are considered to be the minimum to ensure that the building is safe from collapse for up to at least a year. This should ensure the survival of the building in the interim and allow for further discussions about long-term possibilities with the owner.

In the Conservation Best Value Service Continuous Improvement Plan, which was approved by Cabinet, proactive conservation work was given a high priority. This included measures to reduce the number of listed buildings at risk, through means such as Urgent Works Notices and Repairs Notices.

### **Urgent Works Notices:**

The procedure involves the Council serving a notice that it intends to do the Urgent Works within a fixed period, giving the owner seven days' notice that the works are to be carried out. This provides an opportunity for the owner to negotiate with the Council to carry out the works himself. Failure to complete the works within a specified timescale can result in a Notice from the Council with formal indication of its intention to do the work.

The steps specified in the Notice should be the minimum necessary to secure the safety and preservation of the building and should not involve the owner in great expense. If the Council carries out the work, then it can recover the cost from the owner through the County Court. The defences that the owner might put forward are that the works undertaken were excessive (ie not the minimum necessary to secure the building) that the works were not urgent, or that the costs will result in financial hardship. A report from the Institute of Historic Building Conservation has found that, in almost all cases, councils have been able to reclaim funds from the owner. In addition, English Heritage and the Society for the Protection of Ancient Buildings, have a grant scheme for underwriting the cost of urgent works notices should the Council be unable to reclaim the costs from the owner (ie effectively a grant to the Council).

### **Costs:**

The cost of the temporary work as specified by the Structural Engineer is estimated to be approximately £18,000 (including VAT). This includes for internal bracing to the barn, external scaffolding to the eastern and northern elevations, removal of the thatch to the aisle and taking down the aisle and covering the roof in plastic sheeting (from a cherry picker). The costs provided thus far by the Structural Engineer have been provided to give the Council and the owner an indication of the likely cost of the temporary works. If the Council decided to serve an Urgent Works Notice then tenders would be sought from at least two other contractors. As mentioned above, the cost of the work could be recovered from the owner, if necessary, through the County Court.

### **Options for consideration:**

**a)** Serve an Urgent Works Notice under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to give notice to the owner that urgent works, as specified in the Structural Engineer's report, are to be carried out by the Council.



**b)** Do nothing, in which case the building will eventually collapse, resulting in the loss of a listed building and a denuded group of buildings.

#### **Recommendations:**

*It is recommended that Option a) be followed. We have written to the owner to ask him to undertake the works set out in the specification for temporary works. If he fails to do this within 3 weeks of the date of that letter, then the Council will obtain competitive tenders for undertaking the same work and then serve an Urgent Works Notice under Section 54. This gives the owner a further 7 days (from the date of the Notice) to undertake the works – if he does not, then the Council will instruct the contractor to implement the works and recover the costs from the owner.*

#### **Background Papers:**

Specification from the Structural Engineer attached as Appendix 1.

#### **Implications:**

- **Financial:** Approximate cost of works of £18,000 to be recovered from the owner. *In the event the money could not be recovered from the owner, then the cost would be borne by the Council – although it is likely that English Heritage would reimburse 80% of the irrecoverable costs in the form of a grant.*
- **Legal:** In the report.
- **Human Rights:** There would be minimal interference with owner's property rights which are justified under the situation.
- **Personnel:** N/A.
- **Community Safety:** N/A.
- **Environmental implications:** N/A.
- **Council's Core Values:** Being environmentally conscientious.
- **Wards Affected:** N/A.