

**SALISBURY DISTRICT COUNCIL****SPECIAL DELEGATION PROCEDURE**

Cllr

For your approval &  
return to DSUCOMMITTEE CONCERNED: **Northern Area**

FROM: Eric Teagle      SERVICE UNIT:      Forward Planning and Transportation

DATE: 18 September 2008

**Barn to the north of the Manor House, Winterbourne Gunner**

This report requests authority under the Special Delegation procedure to seek an injunction to prevent the possibility of further unauthorised works of demolition being carried out on a listed barn at Winterbourne Gunner. The report also seeks authority to service an Urgent Works Notice in respect of the same building.

The structure is grade II listed and a rare example of a five bay early 17<sup>th</sup> century timber framed barn. Built of elm over a brickwork plinth and weather boarded, it has attached stores at each end, which are also listed by virtue of attachment. The roof was mostly of thatch, with a small section under Welsh slate. The site is also within the Winterbourne Gunner Conservation Area.

The committee first resolved to serve an Urgent Works Notice in June 2005. The owner suggested that he would carry out the works necessary by the end of September. No such works were done, and on 18<sup>th</sup> October 2005 the council's contractors attended site, but were denied access by the owner; an entry warrant was gained from the Salisbury Magistrates' Court to enable access if necessary.

The matter was brought back to the committee on 17<sup>th</sup> November 2005 for reconsideration, and it was again resolved to serve the Urgent Works Notice. On 29<sup>th</sup> November 2005, the day on which the council's contractors were to carry out the works, the owner demolished approximately two-thirds the building. He was subsequently convicted in the Salisbury Magistrates' Court for unauthorised works to a listed building and fined £12,000 plus costs in October 2006.

In the meantime, in March 2006, the committee resolved not to serve a further Urgent Works Notice, concluding there was insufficient fabric to merit it.

In February 2007, the owner submitted an application for Listed Building Consent to demolish the remaining structure. This was refused at the committee's July 2007 meeting, largely for its lack of justification and failure to satisfy Local Plan policies CN1 and CN9 and the guidance contained in PPG15. Objections were received from three statutory consultees: English Heritage, the Society for the Protection of Ancient Buildings, and the Ancient Monuments Society; as well as the Salisbury Civic Society.

At the subsequent appeal, the Secretary of State (DCLG) found that

*"no detailed assessment has been made of the condition of the surviving fabric, or of the practicality of reconstruction. It is quite possible that it could, as a timber frame structure, be reconstructed by combining the surviving standing material together with such of the fallen timbers that are usable."*

And further that

*"Its complete demolition would detract from both the character and the appearance of the conservation area. The reconstruction of the building would have value in restoring the contribution that it formerly made to the historic farmstead group, and to the overall character and appearance of the conservation area. The intrinsic importance of the appeal building still remains, and it has not been shown to be wholly beyond reconstruction."*

The appeal was dismissed on 23<sup>rd</sup> April 2008, and on the basis of this decision, officers have sought to establish the condition of the remaining fabric of the building in order to provide an

informed recommendation to committee. They have confirmed to the owner that the cost of this survey will be borne by the council. Numerous letters and emails have been exchanged between officers and the owner since 8<sup>th</sup> July 2008 over access, leading to the need to prepare an application for a new entry warrant. However, the owner subsequently relented and the council's surveyor and officers attended the site on 15<sup>th</sup> September 2008. Assurance that no materials would be moved or any further harm done was sought but not received.

Due to the instability of the barn, the survey was limited to a visual inspection from the perimeter. The barn had been periodically photographed from the road to record its condition, particularly since the inspector's decision, and some elements of collapse raised concerns that they were not naturally occurring. The surveyor has confirmed these concerns, as particular events could not have occurred without assistance, such as the removal of the slates (which have not fallen nearby), the location of a fallen purlin, and the further sideways movement of raking shores.

In view of the failure of the owner to provide the assurances sought, his conviction for unlawful works, and apparent continued desire to ignore legal processes and penalties, it would appear appropriate to seek:

1. A short-term injunction (three months) against the owner, which would prevent any further intentional damage, to be issued in the High Court as per counsel's advice.
2. Authorisation to serve a new Urgent Works Notice, solely for the purpose of making the structure safe enough to enable a detailed survey to be undertaken, for the same period as the injunction. A schedule is being prepared to accompany this. The survey report can then inform officers and English Heritage in respect of the possible options, from delisting to reconstruction, and thereafter officers will report back to committee.

Should a longer-term injunction be required or appropriate, officers will seek committee approval.

**Recommendation:** it is recommended that authority be given for the actions listed at 1. and 2., above.

(Please tick relevant box)

IMPLICATIONS	OFFICER	COMMENTS (incl)	NONE	NOT APPLICABLE
Legal	Laura James	The short term injunction is a proportionate response in this case where legal process and sanctions have been apparently ignored and will enable reasonable measures to be taken in accordance with statutory provisions'.		
Financial	Caroline Law	The Council will incur costs in relation to Counsel's and Court fees estimated to be in the region of £2000 - £3000. The Council will seek the recovery of these costs as part of the proceedings. It is possible (although unlikely) that the Council will be asked by the Court to give an undertaking to pay damages to the defendant in the event that he sustains loss and the injunction is subsequently found to be unjustified. Given the current condition of the building this risk is believed to be minimal.		
Personnel			None	
Environmental	ET	As set out in the report.		

**APPROVED :**

Chair : ..... Vice Chair : .....

Minority Representative: .....