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Report

Report subject: The Barn North Of Manor House, Winterbourne Gunner

Report to: Northern Area Committee

Date: 26 March 2009

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Reason for the report:

At the January meeting of the Northern Area Committee on 29 January 2009 members received a brief update from officers, and it was agreed that a full report be brought before the committee giving the details of the case at the soonest opportunity.

History of the case and current situation:

Members will be aware of much of the history of this site and a brief chronology is appended to this report. There are two separate issues before members today, and they are 1) what, if any, action should be taken in respect of the condition of the barn, and 2) to provide the interim Head of Development Services with members' views on further legal action. This second item must be discussed in exempt business as it is considered that the matters therein fall within the provisions of exempt business within Schedule 12A as amended of the Local Government Act 1972 by reason of the implications of the ongoing court action and potential further criminal proceedings.

The owner has previously submitted an application for demolition, and it is assumed that his position in respect of the building has not changed since that time. In the inspector's decision to dismiss the appeal against the council's decision to refuse consent, he made it clear that the application was not sufficiently backed up with evidence, e.g. from a structural engineer or timber-framed buildings specialist, to argue the case successfully, saying 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."

The inspector went on to argue why the building's loss would be so significant, arguing 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."

Barn Condition

Following the inspector's decision and his proposal that reconstruction of the barn might be feasible, the council commissioned a report from Martin Smith of RJ Smith and Co, historic buildings specialists, on the remains of the barn in the autumn of 2008; this is appended to this report. In summary, the report estimates that approximately 25% of the original fabric of the barn is capable of being reused in its original position within a reconstruction of the barn. The works would also incur substantial costs to the owner, although it must be noted that these costs would have been considerably lower than without his intervention in 2005; furthermore, the delay between demolition and our survey allowed the fallen timbers to sweat and rot under the fallen thatch, and likely caused substantially less of them to be capable of reuse.

The standing remains of the barn have been stabilised with scaffold, and most of the fallen timbers have been stacked in a way to aid their drying out. There is unlikely to be any further dramatic deterioration, and in the case of the stacked timbers, their condition will improve over the coming year.

It would seem that three options are available to the council at this point, and they are outlined below.

1. Serve an enforcement notice.

In March 2006 committee resolved not to take enforcement action in respect of the works carried out in November 2005. The fact that further works have been undertaken represents a change in circumstances that could allow a notice to require restoration to the state before the unauthorised works of November 2005. This would not provide a full restoration of the building, but could enable its re-erection to a structurally sound and weathertight condition. The owner would have a right of appeal against such a notice and the expediency of its demands would be scrutinised. It is important to note that the objective of an enforcement notice would be the restoration of the building, not punishment of the owner.

The council's report makes it clear that the barn is capable of reconstruction, but that this would involve approximately 75% new fabric, and an assessment has to be made as to whether the benefits to the farmstead and the conservation area are sufficient to justify this. Costs of full restoration, which would be beyond the scope of an enforcement notice, are expected to be in the region of £200,000.

The surviving special interest of this building would be preserved by this option and the rest of the building would be a faithful replica based on the evidence available on site. The barn's important visual contribution to the farmstead group and the conservation area would be restored.

English Heritage, who objected to the previous application for demolition, and have been kept informed of recent events and have the consultant's report, have verbally advised officers that they do not consider 25% retained fabric as sufficient to warrant the reconstruction of this barn, even taking into account the farmstead group and conservation area value.

This option would require substantial outlay and commitment from the owner, and specialist contractors to achieve.

2. Recommend that de-listing of the barn be sought.

Amendments to the statutory lists are approved by the Secretary of State for Culture, Media and Sport, based on the recommendation of their statutory adviser, English Heritage. There are problems with this option, however. English Heritage will not, as a rule, consider delisting of a structure while potential enforcement matters remain, or during the handling of an application for Listed Building Consent by the local planning authority. Another issue is that the barn lies within the curtilage of the grade II listed Manor House (and is obviously pre-1948), so that even if the barn's own listing were to be removed, it would still be listed.

3. Do not serve a Listed Building Enforcement Notice or further Urgent Works Notice.

This would leave the building in its current state unless an application for its demolition were to be approved at a later date. The owner would still be unable to remove any fabric from the site as this would constitute an offence under the Planning (Listed Buildings and Conservation Areas) Act 1990. The owner would incur no costs except for those involved in preparing an application, and those related to the Urgent Works Notice served in the autumn. As mentioned in the condition section above, the remains of the barn are unlikely to deteriorate significantly further due to the scaffold and stacking, and this should allow sufficient time for the consideration of any proposals by the owner.

Recommendations:

That the committee consider option 3.

Costs to the council since July 2008.

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| Urgent Works Notice – securing the building with scaffold | approx £4000 |
| Injunction costs – barrister, court fees | approx £4500 |
| Survey by consultant | approx £500 |
| Officer time | |

The costs of the Urgent Works Notice are recoverable from the owner.

Implications:

- Financial: None
- 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: N/A
- Wards Affected: N/A

Chronology of recent events at Manor Farm, Winterbourne Gunner

- 02/06/05 Committee resolved to serve Urgent Works Notice to prevent further deterioration of the barn pending further discussions with the owner about its repair.
- 29/11/05 Illegal demolition of substantial parts of the barn, hours before council's contractors due on site to carry out works in the UWN. Delays due to nesting barn owls and owner's denial of access.
- 01/12/05 Mr Bruce-White interviewed under caution and in accordance with PACE. It was made very clear that any further interference with the fabric of the barn, standing or otherwise, would constitute a criminal offence in addition to that of 29/11/05.
- 12/01/06 Photograph shows partial further roof collapse, and the slates of the north aisle still in situ.
- 20/01/06 English Heritage advise that they will not consider delisting of the barn while potential enforcement action is pending; and that its value as part of the farmstead group, and potential for reconstruction from its fallen parts, is significant and worth pursuing.
- 23/03/06 Committee resolved to take no further action, having considered whether to pursue enforcement options. Members were advised that the owner would be prosecuted for the offence on 29/11/05, as encouraged by the Secretary of State's advice in PPG15.
- 06/09/06 Photograph shows the slates missing from the north aisle. Having not entered the site following the decision of 23/03/06, officers were unable to confirm whether this had been a natural event.
- 30/10/06 Mr Bruce-White convicted in the Salisbury Magistrates' Court of wilful damage to a listed building and fined £12,000 plus £2,500 costs.
- 28/06/07 Application for Listed Building Consent to demolish the remainder of the barn was refused by committee, citing loss of significant historic building, impact on farmstead group and the conservation area, as recommended by conservation officer. Objections had been received from English Heritage, Society for the Protection of Ancient Buildings, Ancient Monuments Society and Salisbury Civic Society.
- 23/04/08 Appeal dismissed by Secretary of State's Inspector.
- 08/07/08 Officers wrote to Mr Bruce-White seeking access to survey the barn in light of the recent appeal decision.

- 15/09/08 Survey of the barn by officers and consultant following lengthy exchange of letters and emails. Evidence obtained suggesting that further unauthorised works had been carried out.
- 18/09/08 Permission under the 'special delegation' scheme granted to officers by Chair, Vice-Chair and minority rep of Northern Area Committee to serve an Urgent Works Notice.
- 24/09/08 Injunction granted in the High Court, London, to prevent Mr Bruce-White entering or interfering with all parts of the barn.
- 04/11/08 Urgent Works Notice served on Mr Bruce-White.
- 18/11/08 Mr Bruce-White's surveyor on site, accompanied by officers as agreed.
- 21/11/08 Scaffold erected by council's contractor to secure standing remains. Other fabric stacked carefully to dry out over the following weeks.
- 01/01/09 Injunction expired.