

- 1.4 On 26 July 2011, a planning application was submitted by the owner of Napps Farm seeking permission to convert the existing building for use in association with the use of land at Napps Farm as a vineyard. This application was and remains invalid. The submission of that application, albeit very close to the compliance date for the enforcement notice, became a material matter for the Council's proper consideration in pursuing the enforcement notice. Subsequently the owner's solicitors indicated that the application was to be withdrawn. We believe that is still the position but withdrawal has not yet formally occurred.
- 1.5 During the latter part of August, arrangements were put in place to formally interview the owner of Napps Farm with a view to considering whether criminal proceedings should be commenced for non-compliance with the enforcement notice. However, that process was temporarily postponed in view of mitigating personal circumstances put forward on behalf of the site owner. A formal extension to the period of compliance with the notice until 30 September was subsequently granted based upon assurances given that works towards compliance had commenced and would be completed by that date.
- 1.6 In the event the site was inspected on the first working day following the expiry of the extended period and it was found that the building had been substantially demolished. The original floor slab remained (as allowed by the appeal decision) together with a low brick wall (which appear to be the remains of the walls of the building) of a maximum height of 0.37m around the perimeter of the slab. A small amount of materials were also on site at that time.
- 1.7 It is currently understood that the owner intends to leave the low wall in place and to utilise the area as a raised growing bed.

2. Determining Issues:

- 2.1 It is clear that the substantive demolition of the building has taken place. Although the enforcement notice has not been complied with in a wholly literal sense, the remaining low walls are inconsequential in the context of the planning reasons on which the enforcement notice and the appeal decisions were based. It is not therefore considered expedient on planning grounds to pursue the notice further.
- 2.2 Furthermore, we do not consider there would be any likelihood of further action by way of criminal proceedings for non-compliance being justified in the public interest, which is a fundamental element of the tests set out in the Code for Crown Prosecutors. The Council is obliged to meet the tests in the Code prior to bringing any criminal action.
- 2.3 It is, however, necessary to formally draw this case to a conclusion and the appropriate means to do that is by the withdrawal of the extant enforcement notice.

3. Recommendation:

- 3.1 That the Enforcement Notice, having been substantially complied with, be withdrawn.

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