Taunton Deane Borough Council

Internal Memorandum

From: [redacted]

To: [redacted] – Planning Enforcement

CC [redacted] Planning Enforcement

[redacted] – Planning Administration

Ref: PD/11/A/PD/11/A/848

Ref: E0342/08/08

Ext: 2303

Date: 4th September 2009

Enforcement Notice and Listed Building Enforcement Notice
Nerrols Farmhouse, Cheddon Fitzpaine

I have today issued both an enforcement notice and a listed building enforcement notice for the above property. I have enclosed a copy of each for your records together with your file. Please also find enclosed the original notices for inclusion on the enforcement register.

Regards

[redacted]

Assistant Solicitor

Important - This Communication Affects Your Property
Planning (Listed Buildings and Conservation Areas) Act 1990
Listed Building Enforcement Notice

Issued by: Taunton Deane Borough Council

1. The Council is the local planning authority for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to the following buildings: Nerrols Farmhouse and associated barns, Nerrols Farm Lane, Cheddon Fitzpaine, Taunton TA2 8QJ ('the Buildings')

2. The Buildings are included within a list of buildings of special architectural or historic interest compiled or approved under section 1 of the said Act

3. **Breach of listed building control**
It appears to the Council that the works specified below have been or are being executed to the Building and are such as to constitute a contravention of section 9(1) of the said Act:

The erection of timber buildings comprising of restaurant/tea room, play area and reptile house in the curtilage of the Buildings

4. **Reason for issuing the notice**
The Council considers it expedient to issue this notice having regard to the effect of the said works on the character of the Building as one of special architectural or historic interest

It is considered that the erection of the timber buildings (one attached to an extant barn) are detrimental to the character of the extant barn and the setting of Nerrols Farmhouse, a Grade II listed building, contrary to Policy 9 of the Somerset and Exmoor National Park Joint Structure Plan Review and PPG 15. It is also considered that the development does not accord with Policy EC21 of the Taunton Deane Local Plan.

5. **Steps required to be taken**
The Council requires the steps specified below to be taken within 3 months for the purposes of alleviating the effect of the works carried out without listed building consent:

Remove the timber buildings in their entirety making good any damage to the Buildings, utilising workmanship and materials commensurate to the age and character of the Buildings

6. **Time for compliance**

3 months from the date this notice takes effect

7. When this notice takes effect

This Notice will take effect on 13th October 2009 unless an appeal is made against it beforehand

Dated: 4 September 2009

Signed: [redacted]

on behalf of Taunton Deane Borough Council
The Deane House
Belvedere Road
Taunton
Somerset
TA1 1HE



Title:

Date: 30/11/2004

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Taunton Deane Borough Council

TAUNTON DEANE BOROUGH COUNCIL

Annex

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

The Planning (Listed Building and Conservation Areas) Act 1990 as amended.

Listed Building Enforcement Notice relating to Nerrols Farmhouse and associated barns, Nerrols Farm Lane, Cheddon Fitzpaine, Taunton TA2 8QJ

This local planning authority, Taunton Deane Borough Council has issued a Listed Building Enforcement Notice relating to the above building and I now serve on you a copy of that notice as you have an interest in the building. Copies of the notice are also being served on the parties listed at the end of this letter who, it is understood, also have an interest in the building.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 13th October 2009 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the Listed Building enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 13th October 2009.

Under section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), you may appeal on one or more of the following grounds:-

(a) For a listed building - that the building is not of special or architectural or historic interest;

For a building within a conservation area – that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated;

(b) that the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred;

(c) that those matters (if they occurred) do not constitute such a contravention;

(d) that the works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;

(e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;

(f) that copies of the notice were not served as required by section 38(4).

(g) except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out; (Note: It should be noted that its condition before the works were carried out refers to its former authorised condition, which is its condition when listed, subject to any listed building consents subsequently granted. It does not refer to its physical condition, for example in terms of repair.)

(h) that the period specified in the notice as the period within which any steps required by the notice is to be taken falls short of what should reasonably be allowed;

(i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve the purpose. (Note: this ground cannot be pleaded at the same time as grounds (j) and/or (k) -see note below.

(j) that the steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building. (Note: This ground is concerned with alleviation, not with restoration and cannot be pleaded at the same time as grounds (j) and/or(k)- see note below)

(k) that steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with(Note:This ground cannot be pleaded at the same time as grounds (i) and/or(j) –see note below.

Note: Not all of these grounds may be relevant to you.

Please also note that grounds (i), (j) and (k) are mutually exclusive and cannot be pleaded simultaneously although any one of them can be pleaded at the same as ground (g).

Ground (i) should be pleaded if the notice has been issued under Section 38(2)(a) and relates only to restoration

Ground (j) should be pleaded if the notice requires alleviation of the works and it has been issued under Section 38(2)(b).

Ground (k) should be pleaded if the notice has been issued under Section 38(2)(c) and requires bringing the building to the state it would have been in if the terms and conditions of any Listed Building Consent had been complied with.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

Parties on whom the enforcement notice has been served





