
BREACH OF PLANNING CONTROL ON LAND AT 2-4 SOUTHEND ROAD, HOCKLEY, ESSEX

SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control, namely the non-compliance with condition 16 attached to planning permission reference 01/00272/FUL.
- 1.2 Members will need to consider whether it is expedient to serve notices, etc. and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

2 INTRODUCTION

- 2.1 Planning permission was granted in May 2001 to demolish two existing houses and outbuildings and to erect 5 detached houses. Included within this consent were a number of conditions that were imposed to ensure that the development was constructed satisfactorily and with minimum disruption.
- 2.2 Amongst these condition 16 read as follows :-

“No development shall commence before all existing trees, together with shrubs and hedgerows marked; tree X, hedge A-B and hedge C-D on the approved drawing 00/102/6f, have been protected by chestnut paling fencing erected at the full extent of the crown spread, which shall remain for the duration of the development hereby permitted. Such protective fencing shall be removed only when the full extent of the development (including all underground services and works) have been completed. Under no circumstances shall any equipment or materials (including displaced soil) be stored or buildings or structures erected (including site offices), nor shall any changes be made to the existing ground level within the area marked by the chestnut paling fencing.”

- 2.3 Such a condition was imposed to enable the LPA to secure adequate protection of existing trees, shrubs and/or hedge plants during the construction of the development hereby permitted, in the interests of the continued health and existence of those trees and hedges, which are shown to be retained during development.

3 PLANNING HISTORY

- 3.1 This matter was brought to the authority's attention at the end of July 2002 and a visit by an Officer revealed that no chestnut fencing had been erected around any of the trees or hedges on site.

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- 3.2 A letter was sent to the developers in August 2002 advising them of the need to comply with the condition yet a subsequent site visit revealed that compliance was not forthcoming. The developers were advised verbally during this visit of the requirements of the condition and were given a further deadline within which to comply. A further inspection at the expiration of this deadline again revealed that the terms of the condition had not been complied with.
- 3.3 The decision was therefore taken to request authorisation for further, formal enforcement action.

4 PLANNING ISSUES

- 4.1 The condition was imposed in an attempt to afford protection to the trees and hedges on the site. The absence of this fencing increases the likelihood that permanent damage will be caused to the vegetation already on the site, to the undoubted detriment of both the visual appearance of the site and also to the residential amenity of both nearby residents and also future residents of the development.
- 4.2 Furthermore, the lack of protection increases the risk that equipment and materials etc may be stored close to the hedges and trees on site and therefore increases the risk of irreparable damage being caused. No appeal was lodged against this particular condition being imposed by the developers so they can have no valid reason now for not complying with it.
- 4.2 This Enforcement action seeks authorisation which would allow, for example, the issue of a Breach of Condition Notice requiring the terms of condition 16 of planning application reference 01/00272/FUL to be complied with.

5 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That the Head of Planning be authorised to take all necessary action including the issue of Notices and action in the Courts to secure the remedying of the breach now reported. (HPS)

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Head of Planning Services

Background Papers:

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