
BREACH OF PLANNING CONTROL ON LAND AT CROWN BINGO HALL, CROWN HILL, RAYLEIGH, ESSEX

1 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 4 attached to planning permission reference 01/00898/FUL, and works in breach of a Tree Preservation Order (TPO).
- 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 February 2002 to erect 18 self contained elderly person flats with communal area in 2/3 storey building, layout parking, alter access. 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 4 read as follows :-

“No development shall commence before all existing trees subject to Tree Preservation Order TPO 28/83 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 and 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 during the construction of the development hereby permitted, in the interests of the continued health and existence of those trees which are shown to be retained during development.

3 PLANNING HISTORY

- 3.1 This matter was recently the authority's and a visit by an Officer revealed that no chestnut fencing had been erected around any of the trees or hedges on site. Furthermore, the area underneath the protected trees was used to store items for the development such as wooden roof trusses and wooden pallets.
- 3.2 A letter was sent to the developers on the 11th November 2002 advising them of the need to comply with the condition yet a subsequent site visit revealed that compliance was not forthcoming. Following this a further letter was faxed to the developers on the 27th November 2002 reminding them of the need to comply with this condition. They were advised that an inspection would be undertaken on the 29th November and that if the items stored under the trees had not been removed, nor the chestnut paling fencing erected satisfactorily then further, formal action would be considered.
- 3.3 A subsequent inspection on the 29th November revealed that the terms of the condition had not been complied with in that the wooden pallets were still stored underneath the trees and the chestnut paling fencing was not erected at the full extent of the crown spread. 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 additional protection to the TPO'd trees on the site. The absence of chestnut paling fencing in the correct location increases the likelihood that permanent damage will be caused to the trees 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. The storage of pallets and other equipment under the trees also increases the likelihood of permanent damage being caused to the trees.
- 4.2 Furthermore, the lack of protection has clearly increased the risk that equipment and materials etc stored close to the trees on site will cause irreparable damage. 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.
- 4.3 This Enforcement action seeks authorisation which would allow, for example, the issue of a Breach of Condition Notice requiring the terms of condition 4 of planning application reference 01/00898/FUL to be complied with. It also seeks authorisation to take whatever action is deemed appropriate in respect of TPO 28/83 to remedy these breaches.

5 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That the Head of Planning Services be authorised to take all necessary action to secure the remedying of the breach now reported. (HPS)

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Head of Planning Services

Background Papers: None

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