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**BREACH OF PLANNING CONTROL AT THE  
ETHELDORE RESIDENTIAL DEVELOPMENT SITE,  
HOCKLEY, 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 5 of planning permission 98/00108/FUL together with a breach of the Tree Preservation Order Nos. 1/85, 15/95, 16/95, 18/95 and 6/99 as a result of damage to a number of protected trees within the development site.
- 1.2. Members will need to consider whether it is expedient to take legal action against the developer over the breach of the Tree Preservation Orders and/or serve a breach of condition Notice on the developer in respect of condition 5. Such action is discretionary, but the mechanisms involved in taking action are statutorily controlled.

**2. INTRODUCTION**

- 2.1. The site is located on land at Etheldore and Wood Avenue at Hockley.
- 2.2. The layout of the development was carefully considered to take into account the existence of a large number of protected trees and Condition 5 required these to be protected during construction. In addition, the Condition also specified that any works within the crown of protected trees should be approved by the Local Planning Authority on a case by case basis.
- 2.3. Following a site visit by the Woodlands Officer in June, it became apparent that a considerable number of trees were showing signs of stress and damage caused by : removal of protective fencing; the storage of materials under canopies of trees; the driving of heavy plant near protected trees; and changes in ground levels and excavations close to trees.
- 2.4. The developer was immediately informed of the situation and further visits took place in June and July to investigate whether any progress had been made to resolve the problems.
- 2.5. A site meeting took place on 10<sup>th</sup> July 2001 involving a Planning Officer, the Woodlands Officer, the Site Manager and the Director of Landscaping from Countryside Residential. The meeting assessed the damage to the trees and sought to identify future areas of conflict between the trees and the approved plans.

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- 2.6 A further site meeting was held on 24<sup>th</sup> July and, following that meeting, the Woodlands Officer reported that various breaches continued to be observed on the site and, indeed, at least one serious further breach had occurred.
- 2.7 Countryside have confirmed that it is their intention to prepare a detailed report of the situation, explaining how the problems will be resolved and the actions that will be taken to compensate for the impact on the preserved trees. At the time of writing this report, Countryside's document had not been received.

### **3 DISCUSSION**

- 3.1 There is no doubt whatsoever that significant damage has occurred to a number of the preserved trees on the site. Despite numerous requests and a siting meeting with senior Countryside Staff, these have not been satisfactorily resolved and, indeed, the Woodlands Officer has reported that further breaches have been observed.
- 3.2 The situation in respect of preserved trees on the site is far from satisfactory and, regardless of any offers from Countryside for mitigation, it is considered that the way forward can only be a prosecution for breach of Condition and legal action in respect of the damage to the preserved trees.

### **4 RECOMMENDATION**

It is proposed that the Committee **RESOLVES:**

That the Corporate Director (Law, Planning & Administration) be authorised to take all necessary action, including the issue of Notices and action in the Courts to remedy the matter now reported. (HOPS).

Shaun Scrutton

Head of Planning Services

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