

DEVELOPMENT SERVICES

REPORT TO WEST & NORTH
PLANNING & HIGHWAYS COMMITTEE
12 FEBRUARY 2013

UPDATE REPORT – DIAL HOUSE, BEN LANE

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to provide information to Members on the status of the discharge of conditions imposed following the granting of planning permission and Listed Building Consent on appeal for the development of Dial House on Ben Lane and to confirm whether the development gives rise to any outstanding planning enforcement issues.

2.0 PLANNING HISTORY

- 2.1 Planning permission for the residential development of the Dial House site on Ben Lane to create 32 apartments as well as the conversion of Dial House to create three dwellings was refused by Sheffield City Council on 22nd June 2005 in accordance with application reference 04/04797/FUL. The accompanying Listed Building Consent for the works to Dial House (04/04808/LBC) was refused on 26th November 2004.
- 2.2 Both applications were the subject of a planning appeal, which was considered by a Planning Inspector at a Public Inquiry held in May 2006. The Inspector allowed both appeals such that planning permission and Listed Building Consent for the residential development of 32 apartments and the conversion of Dial House to 3 dwellings and the demolition of the rear institute building was approved subject to conditions by a decision dated 29th August 2006.
- 2.3 A list of the approved conditions is set out at Appendix 1 of this report.

3.0 PLANNING PROGRESS

- 3.1 The request for this update report follows Member concerns that the development has not been implemented in accordance with the requirements of the planning conditions as well as a primary concern in relation to the state of the bowling green to the rear of the site.
- 3.2 From the 6th April 2008, in accordance with Statutory Instrument 2008, No 958, Town and County Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008, the Government introduced new fees for the discharge of planning conditions. This requires the submission of a formal application and the

means to register and monitor the discharge of planning conditions. In this case, there is no record of a formal discharge of condition application having been submitted in relation to the conditions imposed by the Inspector on either the planning permission or Listed Building Consent. The applicant maintains that full details were submitted at a meeting previously held with officers and it would appear that some details were provided but there is no written evidence of the submission nor is there any record of a fee having been paid for the discharge of the planning conditions. Accordingly, there is no formal record of the discharge of planning conditions having been undertaken prior to works commencing.

3.3 However, it is evident from meeting notes and the advice of the Council's Conservation Officer and Planning Enforcement Officer who attended the meetings that the applicant did engage with Officers prior to the commencement of works and did verbally agree some of the key details required by the conditions such as the facing materials to the apartments, the roof materials to the apartments and the works to protect the Listed Building, the latter being secured separately as part of a Section 215 notice.

3.4 Officers have been in recent contact with the applicant and have advised that a formal discharge of conditions application for the conditions set out in both the planning permission and the listed building consent must be submitted to the Local Planning Authority on or before Friday 15th February 2013. Given that the applicant did undertake verbal discussions with the Council during the course of the construction, this period to formalise the discharge of conditions applications is not considered unreasonable. Furthermore, Members are advised that Officers are satisfied with the materials used in the construction of the apartments and with the details of the construction to date and the Conservation Officer is also satisfied with the repairs to Dial House such that the discharge of Conditions application will serve to formalise the works on site and also provide a basis for the completion of the development in terms of providing large scale details of windows and doors and landscaping etc.

3.5 Members have raised a specific concern about the state of the Bowling Green and whether there are any breaches of planning in this regard. The area for the bowling green is still in situ on site. Members will note that there are three conditions set out within the planning permission that relate specifically to the bowling green comprising Conditions 8, 9 and 10, which state the following:

8. No development shall take place until pedestrian access to the new bowling green has been provided. Pedestrian access shall be retained at all times.

9. No development shall take place until details of a pavilion to serve the new bowling green, including a programme for installation, have

been submitted to and approved in writing by the local planning authority. The pavilion shall be provided in accordance with the approved details and retained as such thereafter.

10. No development shall take place until details of a planned programme of maintenance for the Bowling Green and pavilion has been submitted to and approved in writing by the local planning authority. Maintenance shall be carried out thereafter in accordance with the approved details.

It can be noted from the above that the conditions requires details of a pavilion and a programme for installation and details of a planned programme of maintenance as well as the provision of a pedestrian access to the new bowling green. With the exception of the pedestrian access, whilst accepting that the details to the above conditions should have been formally submitted prior to works commencing, Conditions 9 and 10 require the applicant to submit a programme for installation and a programme for maintenance and it is unlikely that this programme would have required the works to be completed before development commenced although it is clearly appropriate that such details are provided imminently and a programme agreed with Officers for the delivery of the pavilion, as well as a programme of maintenance for the bowling green and pavilion. However, there are no conditions that require the Bowling Green to be available for use before first occupation of either the apartments or Dial House.

4.0 RECOMMENDATIONS

4.1 The role of the Local Planning Authority (LPA) is to remedy any breach of conditions; therefore initially the appropriate action is to seek to have the breaches remedied without recourse to formal action. In light of the recent discussions with the applicant, it is recommended that the contents of this report be noted and Members be advised that no formal action should be considered until the conclusion of the formal submission of the discharge of conditions application. In the absence of any such application being submitted by the 15th February 2013, Officers will consider whether it is appropriate to seek authority to serve a Breach of Condition Notice and/or take enforcement action and in these circumstances a further report will be presented to this Committee.

APPENDIX 1: LIST OF CONDITIONS

Following the decision of the Planning Inspector to allow the appeal against the Council's decision to refuse the application for the residential development of 32 apartments and the conversion of Dial House to 3 dwellings, the following conditions were imposed in relation to both the planning permission and the Listed Building Consent:

Planning permission (Appeal Reference: APP/J4423/A/05/1190189)

1. The development hereby permitted shall begin before the expiration of 5 years from the date of this decision.
2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the apartment buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority.
3. No development shall take place until large scale details, including samples if necessary, of the roof eaves, valleys, ridges and verges, roof-lights, rainwater goods, windows and details of their openings, including head, sill and jamb, external doors and details of their opening including head, sill and jamb, external balustrades and chimneys that form part of the apartment buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until full details of both hard and soft landscaped works have been submitted to and approved in writing by the local planning authority. These works shall include proposed finished levels or contours; means of enclosure, car park layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials, minor artefacts and structures, proposed and existing specifications and planting schedules, details of existing trees and hedges within the site and measures for their protection in the course of the development; boundary walls, gateways, steps, paths and hard standings around Dial House; and a programme of works.
5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
6. No development shall take place until full details of the new access to Ben Lane, including the footway along the site frontage, the stopping up of existing accesses and vehicle/pedestrian visibility splays have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the

approved details and completed before occupation of any of the dwellings approved herein, and retained as such thereafter.

7. No development shall take place until details of equipment for the effective cleaning of the wheels and bodies of vehicles leaving the site, and its use, have been submitted to and approved in writing by the local planning authority. This equipment shall be operated in accordance with the approved details and properly maintained for the duration of the demolition and construction works.
8. No development shall take place until pedestrian areas to the new bowling green has been provided. Pedestrian access shall be retained at all times.
9. No development shall take place until details of a pavilion to serve the new bowling green, including a programme for installation, have been submitted to and approved in writing by the local planning authority. The pavilion shall be provided in accordance with the approved details and retained as such thereafter.
10. No development shall take place until details of a planned programme of maintenance for the bowling green and pavilion has been submitted to and approved in writing by the local planning authority. Maintenance shall be carried out thereafter in accordance with the approved details.

Listed Building Consent (Appeal Reference: APP/J4423/E/05/1192253)

1. The works hereby authorised shall begin not later than 5 years from the date of this consent.
2. All masonry repairs, new areas of masonry and pointing shall match the existing surrounding masonry in material, bonding, colour, size, shape and texture.
3. No work shall take place until large scale details, including samples if necessary, of roof materials, eaves, valleys, ridges and verges, new windows and details of their openings, including head, sill and jamb and new external doors and details of their opening including head, sill and jamb have been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.
4. No work shall take place until large scale details, including samples if necessary, of new roof and floor timbers, floorboards, partitions, internal doors, skirting's, architraves and cornices have been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

5. No works shall take place until details, including samples if necessary, of fire protection measures, soundproofing and all electrical and mechanical services have been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.