

Report to District Development Control Committee

Date of meeting: 13 June 2006

**Portfolio: Planning and Economic Development
Subject: Blunts Farm, Coopersale Lane, Theydon Bois**



Officer contacts for further information:

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Committee Secretary:

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Recommendations/Decisions Required:

- (1) That members give the Head of Planning Services and the Head of Legal, Administration and Estates Services authority to vary the requirements of the enforcement notices issued on 25 January 2006 in respect of Land at Blunts Farm, Coopersale Lane, Theydon Bois, Essex.**

Background:

1. At the meeting of the District Development Control Committee held on 17 January 2006 it was resolved to give authority to issue enforcement and stop notices against breaches of planning control at Blunts Farm comprising:
2. Engineering operations consisting of the creation of deep excavations, the raising of levels on the Land and the importation and deposit of fill material, including waste and demolition waste.
3. Non-compliance with Condition 12 of the planning permission for the construction of a golf course on the land dated 23 April 2002, Ref EPF/765/99.
4. Members declined to give officers authority to vary or withdraw the notices.
5. The Stop Notices were not issued because the activity to be stopped – the importation of fill material, including waste and demolition waste – ceased before such notices could be issued.
6. The enforcement notices were issued on 25 January.
7. The notice in respect of engineering operations required those with an interest in the land to:
 - (1) Cease the importation of fill material of any description, including waste and demolition waste.
 - (2) Cease the carrying out of any excavations on the Land other than those required to comply with this notice
 - (3) Cease the raising of land levels.
 - (4) Either
 - (a) construct a landform on the Land which complies with drawing number BLUN 209A approved pursuant to Condition 12 of planning permission EPF/765/99 dated

23 April 2002 and remove from the Land all fill material of any description, clay or topsoil in excess of that required to comply with the said drawing BLUN 209A.

or

(b) restore the levels on the Land to the original levels prior to the commencement of the engineering operations on the Land which commenced in 2002 and remove from the Land all the excess fill material of any description, clay and topsoil resulting from such restoration.

8. The notice in respect of the breach of condition required those with an interest in the land to:
- (1) Cease the importation of fill material of any description including waste and demolition waste
 - (2) Cease the carrying out of any excavations on the Land other than those required to comply with this notice
 - (3) Cease the raising of levels on the Land
 - (4) Construct a landform on the Land which complies with drawing number BLUN 209A approved pursuant to Condition 12 of the Planning Permission and remove from the Land all fill material of any description, clay or topsoil in excess of that required to comply with the said drawing BLUN 209A

Statement in support of recommended action

9. Appeals have now been made against the notices. The appeals are to be decided by way of a public inquiry. The Planning Inspectorate has advised the timetable for the appeal process started on 31 May 2006. The timetable requires the Council and appellant to each prepare a summary statement of their case by 12 July 2006. The date for the inquiry will be set by the Planning Inspectorate in due course with proofs of evidence required at least 4 weeks before the Inquiry.
10. As part of the preparation for the appeal Officers have had a case conference with Counsel who will be advising the Council's on its case and will be the Council's advocate at the Inquiry. It was strongly recommended by Counsel that the requirement of the notices to remove from the Land all the excess fill material should be varied to meet the concern about the excessive HGV movements that would arise as a consequence of complying with such a requirement.
11. At the time of obtaining authority to serve the Enforcement notices it was important that the Council did not seek to under enforce otherwise deemed planning permission for any unauthorised development may have been given by default.
12. It is therefore necessary to seek authority to vary the requirements of the notices so that they specify steps to be taken to achieve a realistic solution. Also, for the sake of completeness, it was decided the notice alleging a breach of condition 12 should be further modified to refer to approved drawing BLUN.208A.
11. Stace Quantity Surveying, consultants producing evidence of the breach of planning control for the Council, were instructed, in liaison with the Council's Landscape Officer, to produce a plan to show the "best fit" in landscape terms of the existing material on site, with the voids filled using the existing surplus, and the remainder distributed in the way least harmful to visual amenity. This remedy for the breaches would involve no exporting of material from the site and so avoid further disruption for residents. Future importation of construction materials would remain restricted to the minimum necessary such as sand for greens and gravel for drainage. Topsoil requirements would be met from material on the site as originally proposed.

12. Revised requirements suggested to accord with Counsel's advice are:
13. In respect of the notice alleging operational development:
 - a) The cessation of the importation of fill material including waste and demolition waste; and
 - b) The remodelling and landscaping of the land in accordance with the plan and method statement attached to this notice.
14. In respect of the notice alleging a breach of condition:
 - a) The cessation of the importation of fill material including waste and demolition waste; and
 - b) Complete the development in accordance with revised details submitted to and approved in writing by the Local Planning Authority pursuant to condition 12 of the planning permission dated 23 April 2002, Ref. EPF/765/99. The details shall include the proposed grading and mounding of the land. They shall include the contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform. They shall also include a method statement indicating phasing and timetable for the works and that shall be based on remodelling the landform using existing material on the land.
15. The final details of the plan showing "best fit" will be presented verbally to the Committee, together with any further advice or comments received from Counsel.

Consultation undertaken:

Internal only. Public consultation is not normally carried out on planning enforcement issues but, given the level of public interest in this case consideration was given to carrying out a public consultation exercise but due to time constraints this was not possible. Nevertheless, it is considered the intended variation of the notices addresses public concerns, particularly those of excessive HGV movements.

Resource implications:

None.

Budget provision: Nil

Personnel: Nil

Land: The site is some 61 hectares/150 acres in extent and in private ownership

Community Plan/BVPP reference: Policy Theme One Aim 1(A)

Relevant statutory powers: Town and Country Planning Act 1990, section 173A.

Background papers: None

Environmental/Human Rights Act/Crime and Disorder Act Implications: N/A

Key Decision reference: (if required) None