



NOTICE OF MEETING

- Meeting:** Planning (Enforcement) Sub-Committee
- Date and Time:** Monday 19th July, 2010 at 9.30 am
- Place:** Ground Floor Meeting Room, Civic Offices, Fleet
- Telephone Enquiries to:** (01252) 774203 (Mrs P Jackson)
email: patricia.jackson@hart.gov.uk
- Members:** Axam, Billings, Evans, Henderson, Parker, Southern and Street

G Bonner
Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

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1. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 8th March 2010 are attached to be confirmed and signed as a correct record. **(Paper A)**

2. APOLOGIES FOR ABSENCE

3. ELECTION OF CHAIRMAN

4. APPOINTMENT OF VICE-CHAIRMAN

6. CHAIRMAN'S ANNOUNCEMENTS

7. DECLARATIONS OF INTEREST (PERSONAL OR PERSONAL AND PREJUDICIAL)

8. LONGREACH, BRAMSHILL ROAD, EVERSLEY

A report from the Head of Planning Services is attached. **(Paper B)**

9. OUTSTANDING ENFORCEMENT CASES

A report from the Head of Planning Services is attached. **(Paper C)**

10. ENFORCEMENT CASES WITH THE LEGAL SECTION

A report from the Head of Planning Services is attached. **(Paper D)**

11. ENFORCEMENT CASES CLOSED

A report from the Head of Planning Services is attached. **(Paper E)**

Date of Despatch: 6th July, 2010

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English law. Any recommendation either to take or not to take enforcement action has been assessed to make sure that the decision is compatible with the Act. If there is a potential conflict, this will be highlighted in the individual report on the relevant item.

ENFORCEMENT CASE REFERENCE NO: 08/00026/OPERAT**COMMITTEE REPORT ITEM NUMBER:****EXECUTIVE SUMMARY**

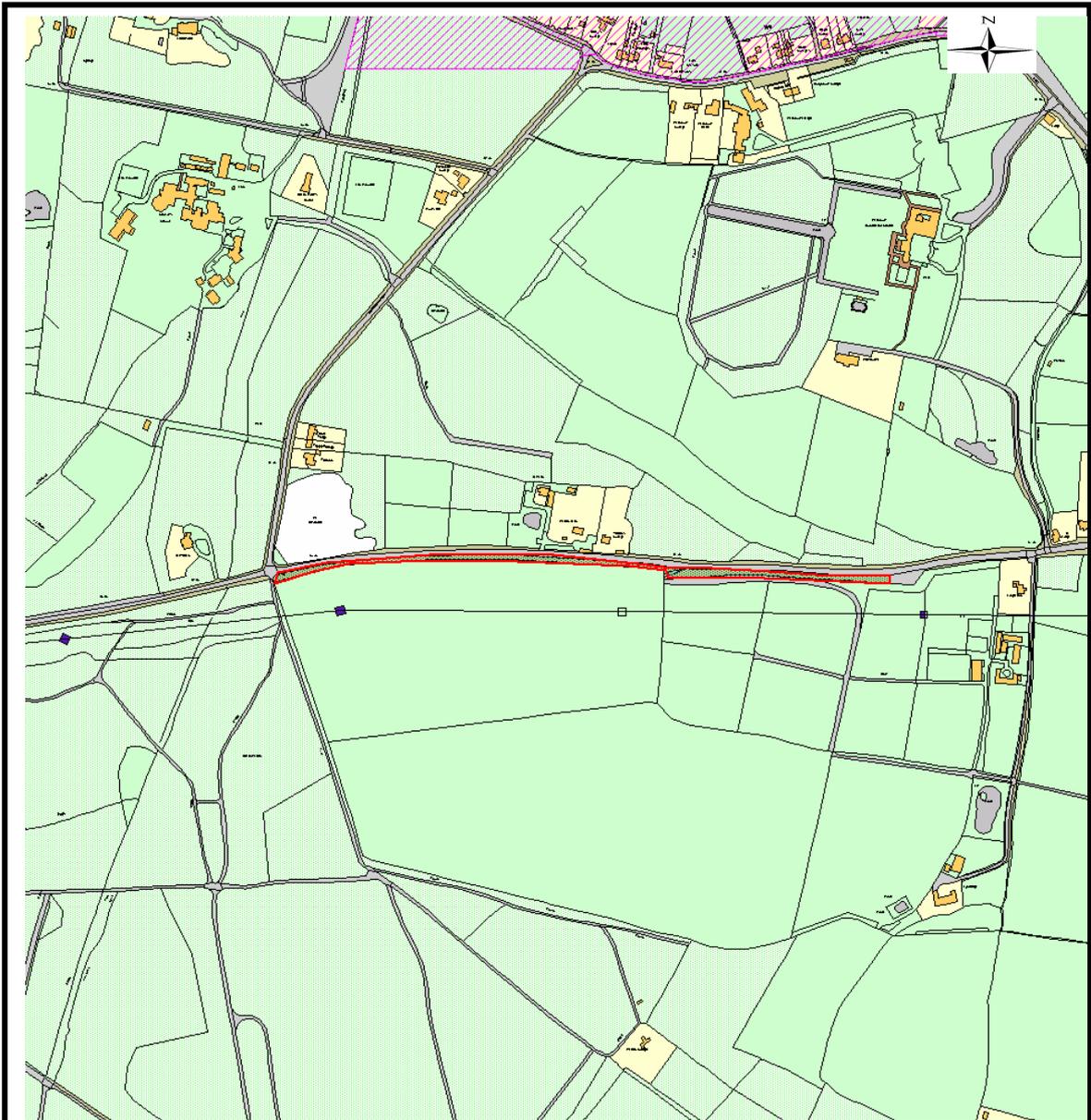
Site Address	Longreach, Bramshill Road, Eversley, Hook, Hampshire RG27 0PS
Nature of Complaint	Earthworks (erection of bund.) Extra earth is being brought in.

Date Registered	06.02.2008	Case Officer	Mrs Sharon Whittaker
Committee Date	19th July 2010		
Ward Member	Cllr Janet Maughan	Parish Council	Eversley
Date Received	05.02.2008		

Nature of Complaint	Earthworks (erection of bund.) Extra earth is being brought in.
Officer Recommendation	That ENFORCEMENT ACTION be taken to secure the removal of the earth around the trees as identified in the report, along with re-profiling and landscaping of the bund with a period of compliance of before the end of the next planting season.

ENFORCEMENT SUB-COMMITTEE REPORT
Enforcement Ref: 08/00026/OPERAT

Location Map



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Committee Date: 19th July 2010

**Longreach
Bramshill Road
Eversley
Hook**

Hampshire RG27 OPS

1.0 BACKGROUND INFORMATION

In February 2008 an Enforcement case was opened as a query was received about the construction of a bund running adjacent to the Bramshill Road in Eversley. The bund was put in place by Balfour Beatty on behalf of the National Grid while they were undertaking maintenance works on pylons in the area.

2.0 THE SITE

The site is a bund adjacent to the Bramshill Road running in length approximately 800 metres.

3.0 ALLEGATION

A bund has been built adjacent to the highway without planning consent.

4.0 RELEVANT PLANNING/ENFORCEMENT HISTORY

None relevant

5.0 RELEVANT PLANNING POLICIES

GEN 1 , RUR 2, RUR 3, of the Hart District Local Plan 1996 – 2006

PE 1, PE 2, Hart District Councils Planning Enforcement Policy

6.0 CONSIDERATIONS

There is an existing bund running from the property known as Longreach for approx 130 metres in a westerly direction along the Bramshill Road. In February 2008 a new bund was created joining onto the existing bund and running a further 700 metres along the Bramshill Road. At the time Balfour Beatty were carrying out maintenance works on behalf of National Grid to the pylons on land owned by the occupier of Longreach.

The owner was contacted and informed that the works constituted engineering works and an application is required, according to the owner Balfour Beatty put the bund in place on behalf of National Grid to for site security and to stop wildlife from running straight onto the Bramshill Road and causing accidents. The newly constructed section of the bund is in keeping with the local character however the new section was slightly higher and the owner was in talks with National Grid and Balfour Beatty to reduce the height to match the existing bund. This was completed and now there is no difference in the height of the existing bund and newly constructed part.

A planning application was requested from the owner of the land, however none was received.

While initially the new section of the bund did encompass the bases of established Oak Trees along the Bramshill Road the owner has, by hand, removed the earth that could have had a detrimental effect on their long term survival. The bund has also been planted with 50 new Oak Trees and a grass and wildflower mix.

There is no dispute that the construction of the bund represents a breach of planning control. Planning consent should have been sought for the construction and no application was made. Having established that there is a breach of planning control the advice in PPG 18 is that the owner should be encouraged to submit an application to regularise the matter.

Since the breach of planning control was established in 2008 officers have been seeking an application. There have been discussions with the landowner in February and March 2008, which resulted in the pulling back of the bund from around the trees. Hart District Council was assured by the landowner that an application would be submitted on behalf of the National Grid as owners of the pylons.

This was chased up in the Summer and Autumn of 2008 and through the Winter. But no application was made, Members will be aware that the Council cannot force someone to submit an application.

There has been no objections from the Environment Agency as to the materials that have been used in the construction of the bund. If an application had been submitted it is considered that the most that would have been required a landscaping scheme along the lines that have already been implemented.

COMMENTS FROM LANDSCAPE AND CONSERVATION

The bund appears to be 'greening' up, which has the effect of softening its visual impact in this rural location. This will take longer beneath the shade of the hedgerow Oaks, but will occur eventually. Rather obviously perhaps, the bund still restricts former views of open grazing land to the south and therefore alters the landscape character of this section of Bramshill Road.

However, the issue of most concern relates to the bund causing suffocation to the root systems of the hedgerow Oaks. The root zone of a mature tree will possibly extend radially from the main stem by as much as 1.5 times the height of the tree. BS 5837:2005, Trees in relation to construction, says that in order to minimise damage to a trees root system, no forms of construction at all should take place within a distance of 12 times the trees stem diameter (measured at 1.5m above the ground). If you raise the soil levels over the root system by more than 150mm, this stops air/oxygen permeating down to the feeder roots and those roots suffocate and die. This usually has a direct effect on the top growth of a tree resulting in die-back and declining leaf development. However, decline in a tree subject to this form of treatment can be immediate or indeed take as much as ten years to manifest. The bund has a width of 2.5-3m which sits directly over the root systems of the hedgerow Oaks, as well as other tree species on the side of this field. Some of the Oaks are only just reaching maturity and may well adapt over time. Some of the Oaks have reached what an arboriculturalist would call their veteran age (dying back naturally and 'entrenching' or creating a smaller more compact crown). It is these trees that I am concerned about because old mature trees do not tolerate change readily due to their reduced vigour. Rather than 'entrenching' there is the increased potential that they just die-back and become progressively weaker until they require removing.

The solution to the above would be to remove the bund within a distance of 12 times the stem diameter of each tree affected. This would need to be done with care and only back to previous ground levels. In some locations this would require the complete removal of the bund for long sections of the field boundary. I fully accept however that this solution creates many difficulties overall.

Concerns have been raised by Eversley Parish Council about the lack of applications and of any deterioration of the external appearance of the bund as topsoil has been washed away. On a recent site visit it was noted that the planting that has taken place is now established and along with natural self seeding, thereby helping by binding any loose soil together, as the bund has been in place since 2008 any settlement would have taken place.

PE 1 of the Councils Policy on enforcing planning control states:

- a) Hart District Council recognises the importance of establishing effective controls over unauthorised development, to assist in the preservation and enhancement of the qualities of both the built and natural environment, and to protect public amenities;
- b) As local planning authority, the Council will exercise all reasonable powers granted under the provisions of the Planning Acts, including all other subordinate legislation, and other relevant legislation to control unauthorised development effectively;
- c) In considering whether it is expedient to start enforcement action, the Council will take account of the policies in the development plan and all other material considerations including the emerging Core Strategy and will assess whether the breach of planning control unacceptably affects public amenity or causes harm to land or buildings which ought to be protected in the public interest;
- d) Formal enforcement action will not normally be taken where a trivial or technical breach of planning control has occurred that causes no material harm, or it is considered that planning permission is likely to be granted unconditionally. In considering whether something is trivial the Council will pay particular regard to whether the site lies within a conservation area where there is a statutory duty to ensure that new development preserves or enhances the character and appearance of the area. Where unauthorised works are carried out on a listed building the Council will also have regard to whether those works adversely affect its character and appearance.

According to PPG 18 where development is carried out without permission:

In assessing the need for enforcement action, LPAs should bear in mind that it is not an offence to carry out development without first obtaining any planning permission required for it. Accordingly, where the LPA's assessment indicates it is likely that planning permission would be granted for development which has already taken place, the correct approach is to suggest to the person responsible for the development that he should at once submit a retrospective planning application (together with the appropriate application fee). It may also be appropriate to consider whether any other public authority (eg the highway or environmental health authority) is better able to take remedial action.

In essence there are two elements here; firstly the overall bund itself, secondly, the effect of the bund on trees along its length.

As set out above, the overall bund essentially extended an existing bund and was thus in character with the area and not detrimental to the visual amenities of the area. Furthermore, as the comments of the Landscape Architect make clear it is "greening up" which has the effect of softening its impact on the rural location. Consequently it is considered that it would not be expedient to take enforcement action over the whole bund.

However, as the Landscape Architect makes clear, there are issues in respect of the effect of the bund on trees along its length, and in line with policy CON8 of the adopted Local Plan, these trees should be protected from the effects of development. It is therefore concluded that enforcement action should be taken to secure the removal of the earth from the trees identified by the Landscape Architect in his comments above, along with re-profiling as appropriate.

It is thus concluded that if an application were to have been submitted the overall principal would have been granted planning permission but it would have needed to be amended to take into account the effect on the trees. Consequently in line with local plan policies and PPG 18 it is considered that it would be expedient to take enforcement action as outlined above.

7.0 RECOMMENDATION

That ENFORCEMENT ACTION be taken to secure the removal of the earth around the trees as identified in the report, along with re-profiling and landscaping of the bund with a period of compliance of before the end of the next planting season.

PLANNING (ENFORCEMENT) SUB-COMMITTEE

Date and Time: Monday, 19th July, 2010 at 9.30 am

Place: Ground Floor Meeting Room, Civic Offices, Fleet

Present:

COUNCILLORS –

Axam	Henderson	Southern
Billings	Parker	

Officers Present:

Robert Jackson	-	Development Control Manager
Sylvia O'Connor	-	Enforcement Officer
Tricia Jackson	-	Senior Committee Services Officer
Nathalie Heaselden	-	Shared Legal Services
Andrew Ratcliffe	-	Landscape and Conservation Manager

1. ELECTION OF CHAIRMAN

Councillor Parker was elected Chairman of the Sub-Committee for the ensuing Municipal Year.

2. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting held on 8th March 2010 were confirmed and signed as a correct record.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Evans and Street.

4. APPOINTMENT OF VICE-CHAIRMAN

Councillor Axam was appointed Vice-Chairman of the Sub-Committee for the ensuing Municipal Year.

5. CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements.

6. DECLARATIONS OF INTEREST (PERSONAL OR PERSONAL AND PREJUDICIAL)

Councillor Billings declared a personal and prejudicial interest where there was any reference to Girl Guide Hut, Mill Lane, Yateley, as she had been contacted by local residents.

Councillor Axam declared a personal interest in respect of Thomas Day Second Hand Car Sales, 71 – 79 Albert Street, Fleet, as he was a regular user of the car wash facility.

7. LONGREACH, BRAMSHILL ROAD, EVERSLEY

The Sub-Committee considered a report from the Head of Planning Services, the purpose of which was to consider the merits of taking enforcement action to secure the removal of the earth around the trees as identified in the report, along with re-profiling and landscaping of the bund.

The owner of the land had confirmed that he was willing to submit a planning application, but had issues with Eversley Parish Council who had raised complaints about the erection of the bund.

RESOLVED

That enforcement action be deferred to enable the owner to submit a planning application within the next six months. In the event it is not submitted within the time scale, the matter is to be referred back to the Sub-Committee for reconsideration.

Note:

- (1) Mr Len Price spoke AGAINST enforcement action.
- (2) Mr Philip Todd, attending on behalf of Eversley Parish Council, was invited to comment on the situation at Longreach.

8. OUTSTANDING ENFORCEMENT CASES

The Sub-Committee considered a report which listed all those cases under investigation for possible enforcement action.

9. ENFORCEMENT CASES WITH THE LEGAL SECTION

A report listing cases being dealt with by the Legal Section was considered and the updated position noted.

10. ENFORCEMENT CASES CLOSED

A report listing closed cases was noted.

The meeting closed at 10.50 am