

Enforcement of Planning Control
Enforcement Item for Consideration – Unauthorised Excavation of Lake and
Construction of a Trackway on Land known as Cotman Meadow and Surlingham
Wood, Postwick

Report by Planning Officer (Compliance and Implementation)

Summary:	This report concerns the unauthorised excavation of lake and construction of a trackway on land known as Cotman Meadow and Surlingham Wood, Postwick. The Authority has served a Temporary Stop Notice, a full Stop Notice and an Enforcement Notice and is seeking to achieve compliance to ensure the restoration of the site.
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Recommendation:	That the report be noted.
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1 Introduction

- 1.1 Following reports on 12 March 2008 of earthmoving works being undertaken, a Broads Authority Planning Officer inspected the site that day and established that contractors were on site with two excavators and two tracked dumper trucks undertaking a project to excavate a lake of 5,000sq meters.
- 1.2 The Planning Officer noted that a hardcore track way had been constructed to the site from Ferry Lane.
- 1.3 Contact was made with the owner and an emergency meeting arranged to seek to rectify the situation. An Officer of the Authority has subsequently had a number of meetings with the owner of the site in an effort to resolve the situation.

2 Policies

2.1 Broads Local Plan (saved policies)

- 2.1.1 Policy C 14 Development on drained marshland
Development will not be permitted on the drained marshlands, except for development which is essential for conservation management, agricultural or land drainage purposes and which cannot be located elsewhere.
- 2.1.2 Policy TR26 Angling Facilities
Is concerned with the provision of angling facilities, including fishing ponds, and associated car parking. It states that they will only be permitted where it would not have a significant adverse effect on the character and appearance of the riverside environment and surrounding landscape or on areas of wildlife importance.

2.1.3 Policy B11 Development Design

Requires that in the countryside new development should be located so as to minimise its visual intrusion in the landscape.

2.1.4 Policy TC8 Highway requirements

Requires that new development makes provision for vehicles and bicycles in accordance with the Highway Authority's parking guidelines and that additional traffic generated by the proposal must be capable of being accommodated on the existing road network without prejudicing road safety or the access of adjoining occupiers.

2.2 Adopted Core Strategy DPD

2.2.1 CS 1 Development and changes in land use / management must ensure that all aspects of the environmental and cultural assets of the Broads distinctive landscape are protected, enhanced and restored.

Proposals should ensure opportunities for positive impacts on the following core assets have been addressed and adverse impacts avoided:

- (i) the defining and distinctive qualities of the varied landscape character areas formed by the built and natural environment
- (ii) tranquillity and wildness as part of the Broads experience
- (iii) the value and integrity of nature conservation interest and
- (iv) the character, appearance and integrity of the historic and cultural environment

Opportunities to mitigate the visual impact of currently intrusive features should be sought.

2.2.2 CS4 The Broads landscape is partly man-made and is constantly changing. There will continue to be opportunities to create new environmental and cultural assets on any scale of development and these will be sought where they:

- (i) create new high quality land and water-based landscapes which reflect the essential Broads characteristics, offering biodiversity gains through habitat creation and opportunities to improve facilities for navigation and recreation;
- (ii) improve the quality of the built environment;
- (iii) involve, for all new developments, good quality design, the use of sustainable construction methods and the use of locally sourced materials;
- (iv) incorporate crime reduction measures in line with "Secured by Design";
- (v) protect, maintain and enhance the nature conservation value of the Broads paying attention to habitats and species;
- (vi) contribute to ecological networks and create habitat corridors, especially linking fragmented habitats of high wildlife value;
- (vii) encourage and facilitate the development of alternative and more sustainable solutions to flood risk and alleviation, taking into account the likely changes as a consequence of climate change.

3 Description of Site and Development

- 3.1 The site of the excavation is situated on land known as Cotman Meadow, off Ferry Lane Postwick, between two small areas of woodland known as Surlingham Wood and Yair Wood.
- 3.2 The access track (also subject of this report) has been constructed from Ferry Lane, a single track unclassified lane, through Surlingham Wood to Cotman Meadow.
- 3.3 The land on which the excavations have been undertaken is a small open meadow which forms part of the flood plain of the River Yare, and is made up of typical peat covered marshland, which had been subject to previous draining.
- 3.4 The track way has been constructed through the adjoining small woodland area known as Surlingham Wood. This area is slightly higher than that of Cotman Meadow.

4 Assessment

- 4.1 The site is outside the development boundary.
- 4.2 No planning permission has been sought or granted for the construction of the track way or for the excavations.
- 4.3 Policy C 14 states that development will not be permitted on the drained marshlands, except for development which is essential for conservation management, agricultural or land drainage purposes and which cannot be located elsewhere. In this case it is considered that both the construction of the track way and the excavations are inappropriate development.
- 4.4 In addition, it is considered that excavations and consequent bunds around the lake will have a significant adverse affect on the character and appearance of the area and is visually intrusive contrary to Policy CS 1. Policy B11 requires that in the countryside new development should be located so as to minimise its visual intrusion in the landscape. The development is in conflict with these policies.
- 4.5 Two meetings were held with the landowner to discuss the cessation of works and the restoration of the site. As a result of a failure of the owner to commence the agreed rectification process a Temporary Stop Notice was obtained seeking the cessation of all engineering and other operations on the site, and prohibiting the removal of materials from the site, and the importation of materials onto the site.
- 4.6 The Temporary Stop Notice was served in person to the owner of the site, at the site, on Friday 14 March 2008.
- 4.7 A Planning Contravention Notice was also served on Friday 14 March 2008.
- 4.8 Following the service of the Temporary Stop Notice the Authority has continued to seek to negotiate restoration of the site. However, despite assurances of the intention to work with the Authority, there has been no progress made or any indication of when progress might be made regarding restoration.

- 4.9 Whilst the Temporary Stop Notice is effective at stopping further works, it cannot be used as a mechanism to require restoration; this needs to be done through an Enforcement Notice. Accordingly an Enforcement Notice was served on the owner of the land on 20 March 2008. The Enforcement Notice will take effect after 28 days and failure to comply with the Enforcement Notice is a criminal offence.
- 4.10 The Temporary Stop Notice will expire prior to the Enforcement Notice taking effect and it was therefore considered expedient to serve a full Stop Notice to protect the land from any further development or the importation or exportation of materials. Accordingly a Stop Notice was served on the owner of the land on 20 March 2008. The Stop Notice will take effect after 3 days and failure to comply with the Stop Notice is a criminal offence.

5 Conclusion

- 5.1 It is considered that the construction of the track way and the excavation of the lake are contrary to Policy CS1 which seeks to ensure that any development or change of use of land contributes to the protection, enhancement and restoration of the distinctive landscape of the Broads. Members are requested to note the action that has been taken.

6 Financial Implications

- 6.1 Members will be updated should the Enforcement Notice not be complied with and further legal costs incurred.

Background Papers: Broads Authority DC Enforcement File BA/2008/0019/UNAUP1

Appendix 1: Location Plan

Author: J James
Date of Report: 20 March 2008

BA/2008/0019/UNAUP1 - Land Known As Yare Wood, Surlingham Wood and Coteman Meadow, Ferry Lane, Postwick
Unauthorised excavation of a fishing lake.

