

**Enforcement Update and Matter for Consideration  
Cotman Meadow, Ferry Lane and Surlingham Wood, Postwick**  
Report by Planning Officer (Compliance and Implementation)

<b>Summary:</b>	This report provides an update relating to the unauthorised excavation of a lake and construction of a trackway on land known as Cotman Meadow and Surlingham Wood, Postwick.
<b>Recommendation:</b>	(i) Prosecution for the offence of failure to comply with the Enforcement Notice within the timescale is NOT pursued.  (ii) That the report be noted and that it be recorded that full compliance has been achieved through negotiation.

## **1 Introduction**

- 1.1 In March 2008 unauthorised earthmoving works were undertaken at land at Cotman Meadow and Surlingham Wood, Postwick. A site visit confirmed that a hardcore track way had been constructed to the site from Ferry Lane and a lake was being excavated.
- 1.2 Contact was made with the owner and an emergency meeting arranged to seek to rectify the situation and a programme of remediation works was agreed.
- 1.3 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. The Temporary Stop Notice was served in person to the owner of the site on 14 March 2008.
- 1.4 An Enforcement Notice was served on 20 March 2008 requiring the re-filling of the excavations (as specified) and the removal of the trackway. A report on the matter was presented to the 4 April 2008 meeting of the Planning Committee.
- 1.5 The landowner lodged an appeal against the Enforcement Notice on the grounds that planning permission should be granted for the development or, alternatively, that the period for compliance was too short. The appeal was dismissed on 7 January 2009 and the Enforcement Notice upheld with compliance date of 7 April 2009. A report on the appeal decision was presented at a subsequent meeting of the Planning Committee.

## **2. Current position on site**

- 2.1 Partial compliance was achieved by 7 April 2009, in that the excavated lake had been filled, but the trackway remained, as did mounds of topsoil meaning that part of the ground surface of the area was, consequently, covered by exposed subsoil.

- 2.2 Protracted correspondence resulted in a partial removal of the trackway surfacing, and some further spreading of the heaps of topsoil.
- 2.3 Whilst the works that had been undertaken were noted, full compliance with the requirements of the Enforcement Notice had not been achieved, and the matter was brought before Planning Committee on 19 June 2009 where authority was given to prosecute for failure to comply with the Enforcement Notice, to take direct action to achieve full compliance, and seek to recover costs from the owner.
- 2.4 Further communication with the owner and his contractor was undertaken, together with a site visit with the owner's contractor. The owner was advised of the action which had been authorised by the Planning Committee and was given a further one month period for compliance.
- 2.5 A subsequent site visit on 11 August 2009 revealed that all outstanding matters have been addressed and that full compliance with the Enforcement Notice has been achieved.

### **3. Further action required**

- 3.1 It is considered that no further action is required, unless members are of the opinion that a prosecution should be pursued for the failure to comply with the Enforcement Notice within the prescribed timescale. Given that the enforcement powers available to a Local Planning Authority are required to be used for the purposes of securing compliance and not for 'punishing' breaches of planning control and that compliance has now been achieved, the costs associated with prosecution would be difficult to justify given that compliance has now been achieved, albeit after persistence.

### **4. Recommendation**

- 4.1 That a prosecution for the offence of failure to comply with the Enforcement Notice within the timescale is NOT pursued, as the Authority has not incurred any legal costs with regards to this particular offence.
- 4.2 That members note the fact that full compliance has been achieved through negotiation.

### **5 Financial Implications**

- 5.1 The negotiated resolution has resulted in no costs, other than staff time in concluding this matter.

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

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List of Appendices: Site Location Plan

BA/2008/0019/UNAUP1 – Land At Yair Wood, Cotman Meadow, Surlingham Wood, Postwick  
Unauthorised excavation of a fishing lake, and construction of track way.

