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## BREACH OF PLANNING CONTROL AT DEKKERS WOOD, REAR OF THE GATTENS, HOCKLEY.

### 1 SUMMARY

- 1.1 The Acting Head of Planning Services reports the unauthorized construction of an access road through a woodland which is subject to a Tree Preservation Order.
- 1.2 The creation of this access to the site was first observed by officers last year following complaints received from the public. The road is sited on an approximately north to south axis and bisects the woodland through which it runs. The woodland is subject of Tree Preservation Order No. 13/84 and the Council's Woodland Officer has informed the owners that the continued retention of the road is undermining the value of the woodland by preventing its natural regeneration. The road way is constructed of hardcore and other waste materials including plastics, sheeting remnants, etc. and, despite some recent "greening over" by limited amounts of vegetation, it appears as an unsightly feature within the Green Belt within which it is situated.
- 1.3 Meetings have been held with the landowners concerned as well as Officers from the Essex County Council Planning Department to resolve this matter and that of the unauthorized construction of bunds and the storage of waste materials on land nearby. The latter matters are those for which the County Council have responsibility and they have resolved to take their own enforcement action against these. However, the continued existence of these bunds so close to the preserved woodland has a detrimental effect on the trees within and as such is considered to be a breach of the Order.

The Woodland Officer's concerns regarding this damage were also forwarded in writing to the landowners. He now reports that the construction of the roadway destroyed any and all trees along its route. He goes on to report that:

- a. it is very unlikely that the route avoided all trees
- b. the wood in the immediate vicinity of the path has a range of trees of varying ages at good densities
- c. it is therefore very unlikely that such a broad swathe of land would be free from any trees running through the site, where the road is now constructed
- d. its continued presence prevents any young trees establishing as part of the woods natural regenerative process, and

- e. the suitability of the soil structure for seed germination and the actual seed bank has been damaged and will continue to degenerate while the roadway remains.

- 1.4 The owners originally claimed that the roadway was constructed by the Electricity Board to assist with its operations to remove an electricity line and pylons. They further claim that there had always been a track running from the adjacent farmland into the wood at this point. In response to a Planning Contravention Notice they now state that at the time of the demolition the ground was very wet and the site owner's son was asked if he could construct a "hard road" to the site of one of the pylons. He complied with this as it "seemed a reasonable request because it would reduce damage on site" and also allowed the owners access to other land to the south where they wished to construct an enclosure mound as "permitted development".

However, the Electricity Company have stated that their contractors "did not have occasion to remove any trees nor to upgrade any part of the agreed access route with hardcore". Moreover, no authority was sought for the road's construction and, notwithstanding an earlier letter from this Council indicating that earth bunds *could* be permitted development, recent case law indicates otherwise. Furthermore, the materials now stock piled to be used in such construction also include waste materials as opposed to just earth. Despite warning letters from both authorities, requesting the removal of the waste materials, bunds around the woodland and the roadway, the items remain.

- 1.5 The land is situated within the Metropolitan Green Belt, to which Policy GB1 of the Rochford District Local Plan (RDLP) First Review and Policy S9 of the Essex Structure Plan apply. Accordingly there is a presumption against development other than that related to agriculture, forestry etc. It is considered that the creation of a private way is contrary to these policies and, as stated above, forms an unsightly feature reducing the openness of the Green Belt in this rural location. Moreover Policies RC 10 and RC 11 from the RDLP generally require the retention and protection of woodlands and trees and the latter indicates that only in exceptional circumstances will permission be given to fell preserved trees.
- 1.6 No bona fide agricultural or forestry activity is apparently occurring on the land and no reasonably necessary purpose in connection with agriculture or agriculture is apparent to justify the creation of the roadway. If allowed to remain the policies and purposes of the Green Belt would be undermined and the well being of the preserved woodland would be compromised.

**2 ENVIRONMENTAL IMPLICATIONS**

2.1 As set out above.

**4 LEGAL IMPLICATIONS**

4.1 Any action considered necessary through the Courts to remedy the breach.

**5 PARISH IMPLICATIONS**

5.1 The site lies within the Parish of Hockley

**6 RECOMMENDATION**

6.1 It is proposed that the Committee **RESOLVES:**

That the Corporate Director (Law Planning and Administration) be authorised to take all necessary action including the issue of Notices and action in the Courts to prosecute for the offences concerning the Tree Preservation Order and secure the remedying of the breach of planning control and now reported. (AHPS)

Shaun Scrutton  
Acting Head of Planning Services

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For further information please contact Nick Barnes on (01702) 318088.