

---

## **BREACH OF PLANNING CONTROL ON LAND NORTH OF PURDEYS INDUSTRIAL ESTATE, ROCHFORD, ESSEX**

### **SUMMARY**

- 1.1 To consider the report of the Head of Planning Services regarding a breach of planning control. Namely the construction of a metal palisade fence across Footpath 18 and Bridleway 38, on land north of Purdeys Industrial Estate, Rochford, Essex.
- 1.2 Members will need to consider whether it is expedient to serve enforcement notices, etc. and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

### **2 INTRODUCTION**

- 2.1 This breach is occurring within an area allocated within the Local Plan for open storage purposes. It involves the construction of a 2.4 metre high steel palisade security fence and gates. The fence encloses land owned by a local vehicle salvage company and the site has an extant consent for such uses.

### **3 THE PLANNING HISTORY OF THE SITE**

- 3.1 Consent was originally granted in 1981 to use the land for carbreaking and open storage. This permission was implemented and remains extant to this day.
- 3.2 The matter of the fence was first brought to officers' attention in August 2001, and inspections revealed that it had been constructed to a height of approximately 2.4 metres. Further investigations revealed it had also been built, partially, across Footpath 18 and that it totally enclosed Bridleway 38.
- 3.3 The site owners were contacted and were advised that the fence would require planning permission. They submitted a retrospective application to retain it in its original location in October 2001. Following consideration, and objection by the Highway Authority, the decision was taken by Rochford District Council to refuse the application in March 2002.
- 3.4 The matter was then referred to Essex County Council's Public Rights of Way Officer and they were asked to take further action to prevent the obstruction of the footpath and bridleway. Such action is currently ongoing. However, the time delay between the refusal of the planning consent and action being taken is now considerable, and it is

considered that the local planning authority should take a more proactive approach to resolving this matter.

#### **4 PLANNING ISSUES**

- 4.1 Governmental advise has shown that the effect of development on a public right of way is a material consideration in the determination of applications for planning permission and that the effect of development on rights of way should be taken into account by LPA's when such applications are considered.
- 4.2 This site lies within an area allocated for open storage. Therefore, the principle of security fencing in this location is sound. What is not sound, however, is the issue of obstruction of the definitive footpath and bridleway. The fence, as constructed on the ground, partially obstructs footpath 18 and completely encloses bridleway 38. The Highway Authority, and indeed the LPA, feels that this encroachment of a public right of way could cause danger and obstruction to highway users, especially pedestrians.
- 4.3 It is apparent also that the footpath has been narrowed to such an extent by this fence that if a walker with a pushchair or a wheelchair user were to meet another member of the public, or a horse and rider, it would be impossible to pass due to the position of the footpath and bridleway next to the river. This would mean that members of the public could not enjoy the use of the public right of way and it could in fact put members of the public in danger.
- 4.4 Therefore, in view of the detrimental effect that this development has on the public right of way, and on pedestrians and others using these rights of way, the decision has been taken to seek authorisation for further, formal Enforcement action. Such action will seek the removal of the entire fence along the northern boundary of the application site.

#### **5 RECOMMENDATION**

- 5.1 It is proposed that the Committee **RESOLVES**

That the Head of Planning Services be authorised to take all necessary action to secure the remedying of the breach now reported. (HPS)

Shaun Scrutton

Head of Planning Services

---

**Background papers:** None

For further information please contact Nick Barnes on: -

Tel:- 01702 318097

E-Mail: - [nick.barnes@rochford.gov.uk](mailto:nick.barnes@rochford.gov.uk)