

committee DEVELOPMENT & REGULATION

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## ENFORCEMENT OF PLANNING CONTROL

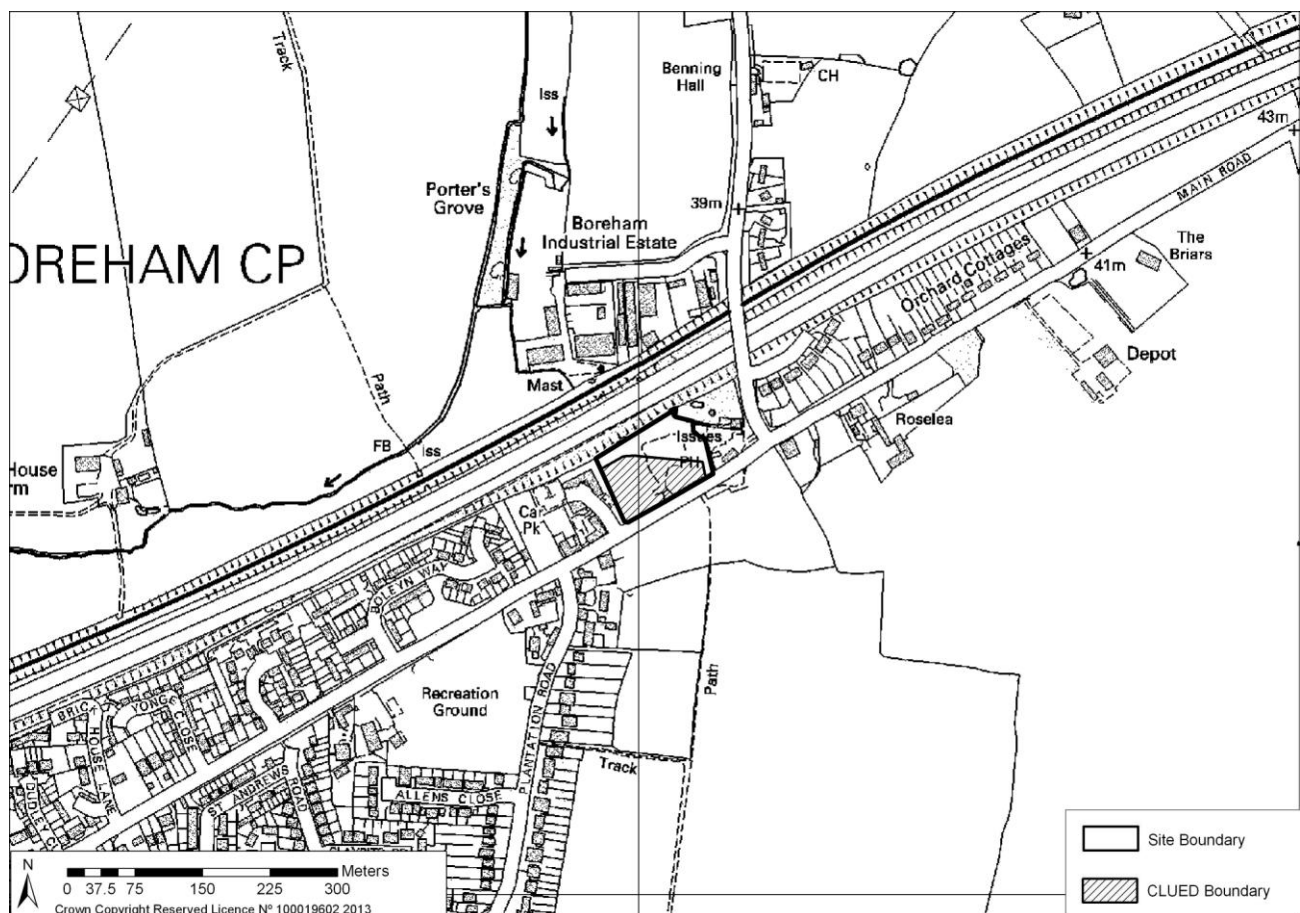
**Unauthorised importation, deposition crushing and processing of construction and demolition waste (including concrete, brick other rubble and road scalplings).**

Site: **Land adjacent to The Cock Inn, Boreham**

Ref: **70.421.33**

Report by Head of Planning, Environment and Economic Growth

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## 1. BACKGROUND AND SITE

On 23 May 2012 the County Council as Waste Planning Authority issued a Temporary Stop Notice (TSN) for activities on land at the Cock Inn, Boreham, alleging that there had been a breach of planning control relating to the following:

*“The unauthorised importation, deposition, crushing and processing of construction and demolition waste (Including concrete, brick, other rubble and road scalpings)”*

The landowner was required to:

*“Cease the importation, deposition, crushing and processing of construction waste (including concrete brick other rubble and road scalpings)”*

The notice took effect on 23 May 2012 and was in force for 28 days during which the importation of waste ceased at the site.

Two Certificates of Lawful Use (CLUED) were issued on the 10th December 1990 in respect of the land adjoining the Cock Inn, Boreham by the then Chelmsford Borough Council, now Chelmsford City Council.

The first Certificate (Certificate A) allows:

*“The siting of two sheds each 2.3m by 3.5m for the storage of grease, oil, tyres and engine parts to serve on site machinery.”*

The second Certificate (Certificate B) allows:

*“Storage of topsoil in heap with a maximum height of about 3 metres (10 feet), screening of top soil and selling onto landscape gardeners and the general public and to a lesser extent storage of paving slabs and bricks.”*

The certificates only authorise a lawful use on the land and do not restrict or limit the intensity of the use such as limiting the number of vehicle movements, control of noise, dust or mud on the road and various other operations (as would, for example, a planning permission).

The site is situated next to The Cock Inn Public House on Main Road, Boreham, adjacent to the A12.

This site has a complex history with numerous unauthorised activities dating back many years. A number of previous operators started to operate outside of the area of the area defined in the CLUED, causing local residents and the Parish Council to lodge complaints with both the City Council and the County Council, as Waste Planning Authority (WPA).

Large amounts of inert waste materials have been imported and added to previously stockpiled crushed concrete, topsoil and general builders hardcore and waste - outside the CLUED area.

## **2. CURRENT POSITION**

The current operator has had discussions with the WPA and since serving the TSN the operator has ceased importing and depositing materials outside of the scope of the CLUED.

The current operator moved on to the site in November 2012. A meeting was arranged with the new operator in December 2012 to discuss the best way forward to resolve the issues of local concern. The operator did accept that the CLUED did not authorise operations at the scale and nature that were historically taking place. As such the current operator has been actively removing large amounts of materials (hardcore etc.) working towards compliance with the existing CLUED

Officers of the WPA have carried out monthly visits and it is estimated that the operator has already removed in excess of 6000 tonnes of materials from the site. Although officers are continuing to receive complaints the operator is making efforts to pull back to the activity to that within the CLUED area and accordingly taking steps to remedy this breach of planning control.

## **3. DISCUSSION**

Relevant Government Guidance is found in the National Planning Policy Framework (NPPF) which states that;

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and the local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*

The County Councils Enforcement Code and Practice (ECP) adopted in 1997 complies with the approach taken in the Framework as it forms part of the WPA's enforcement plan. The ECP encourages officer meetings with landowners/operators before and during enforcement action to seek an agreed solution. If the foregoing remedies are not available or unlikely to succeed then a judgement has to be made whether initiating enforcement action would be expedient and in the public interest.

In considering any enforcement action, the WPA is required to act proportionality, which involves assessing whether a breach of control would unacceptably affect public amenity or the existing use of land meriting protection in the public interest.

As stated, the operator has ceased importing materials (outside the area authorised by the CLUED) and has already started clearing the land to remedy the breach of planning control. As the current operator is actively working to remedy the breach of planning control it is considered that it would not be expedient to proceed with formal enforcement action at the present time. Should the operator however recommence importation or not continue to make progress in working towards compliance with the existing CLUED in the future, enforcement action would remain an option for the WPA.

Officers are continuing to work with Chelmsford City Council Environmental Health team to monitor the noise and dust.

Boreham to Hatfield Peverel is a very busy stretch of road and whilst it may be stained there has been no evidence of significant debris from this site. The operator is nonetheless taking action to maintain a clean access from the site.

## **RECOMMENDED**

That:

- 1) Subject to the continued removal of excess materials to restrict the operation to that permitted by the CLUED, it is not considered expedient to take further enforcement action. Officers shall continue to monitor the site to ensure that the materials are removed in accordance with a timetable to be agreed with the operator.
- 2) a further update shall be provided at the October 2013 meeting.

## **BACKGROUND PAPERS**

Ref: P/DM/SA/ENF/70.421.33

LOCAL MEMBER NOTIFICATION

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