

committee                      DEVELOPMENT & REGULATION

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## ENFORCEMENT OF PLANNING CONTROL

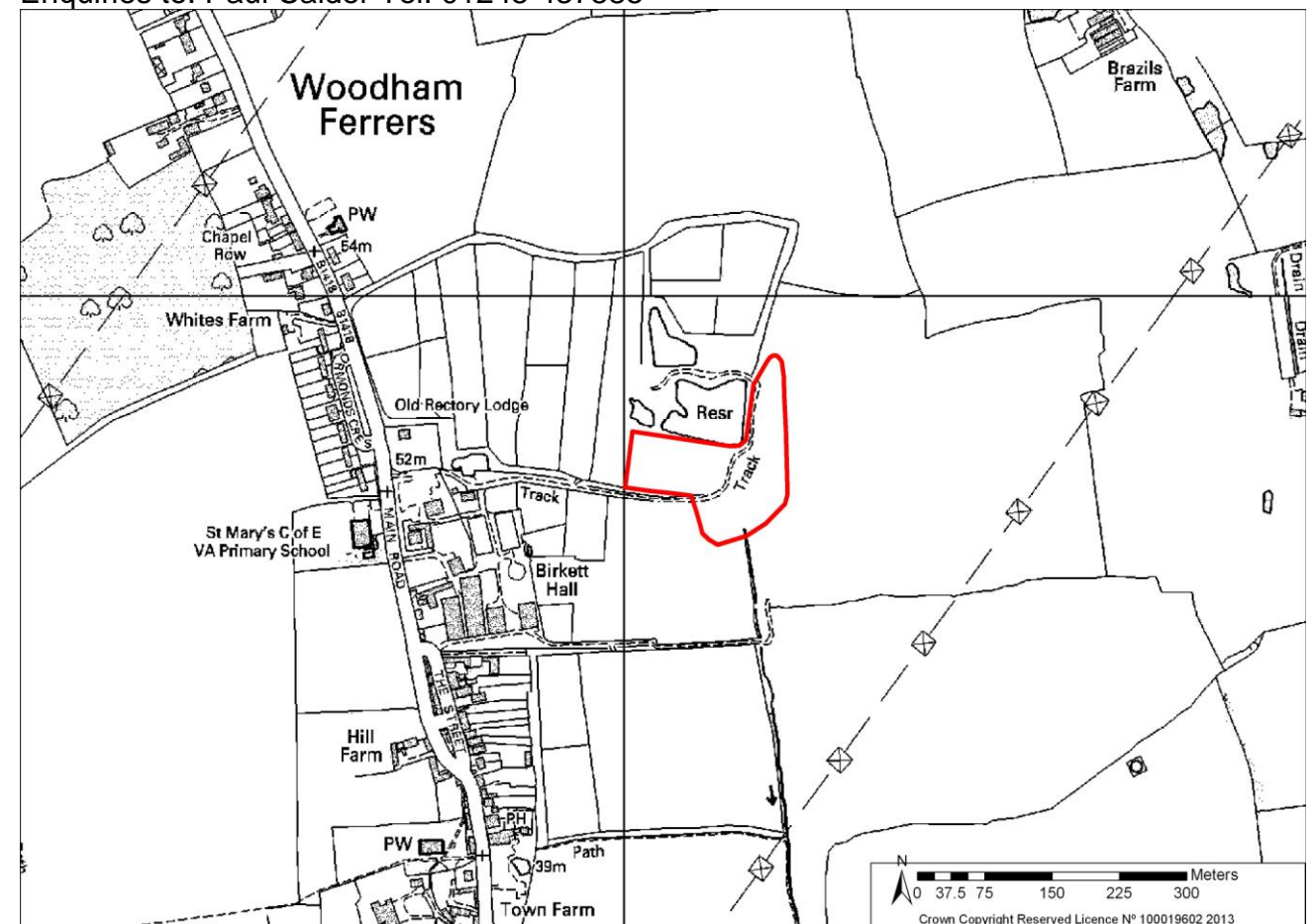
**Unauthorised importation of and spreading of waste materials (including waste soils and rubble) on the land and the unauthorised raising of land.**

Location: **Land at Birkett Hall, Main Road, Woodham Ferrers, Chelmsford, CM3 8RJ**

Ref: **ENF/0497**

Report by Head of Planning, Environment and Economic Growth

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## 1. BACKGROUND

On 21 May 2009 the County Council as Waste Planning Authority issued a temporary stop notice alleging that there had been a breach of planning control relating to the following matters;

- a) The unauthorised importation of and spreading of waste materials (including waste soils and rubble) on the land, and;
- b) The unauthorised raising of land.

The landowner was required to;

- a) Cease, and do not resume, the importation of waste materials, including waste soils and rubble, on the land;
- b) Cease, and do not resume, the spreading of waste materials, including waste soils and rubble, on the land, and;
- c) Cease, and do not resume, raising the land (with any materials already existing on site or any further imported materials) on the land.

The notice was issued on the grounds that no planning permission existed for the importation, spreading and use of waste materials for the raising of land levels. The notice took full effect on 21 May 2009 and ceased to have effect on the 18<sup>th</sup> June 2009.

## 2. SITE

Birkett Hall lies on the east side of Main Road, Woodham Ferrers, to the north of the defined settlement of Woodham Ferrers.

## 3. DISCUSSION

The landowner has had discussions with the Waste Planning Authority (WPA) stating that it is no longer the intention to import materials and that the required landscape works (as the stated reason for importation) have since been completed. Since serving the temporary stop notice, the landowner ceased importing materials.

Enforcement Protocol: The County Council's Development Control Enforcement Policy sets out principles and procedures for enforcement action relating to unlawful development but such action is a discretionary power as the Town and Country Planning Act 1990 (as amended) does not impose a general duty to ensure compliance with planning control.

The National Planning Policy Framework (the Framework) states that '*effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and 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 Council's 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 proportionately, 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 noted earlier within the report the applicant has ceased importation and spreading of waste material since issue of the temporary stop notice (21 May 2009) and has already started to restore the breach of planning control area.

Given this, and the operator's commitment not to import any more waste materials in the future, it is not considered appropriate to take any formal action at this time seeking removal of the waste materials.

Nevertheless, should the landowner recommence importation and spreading of waste material to raise the level of land and depart from their commitment not to import waste materials in the future enforcement action would therefore remain an available option for the WPA to take.

## **RECOMMENDED**

That:

- 1) Subject to no further waste materials being imported to the site, it is not considered expedient to take enforcement action requiring the removal of the previously deposited waste materials. Officers shall continue to monitor the site to ensure that the land is restored appropriately, and thereafter;
- 2) a further update shall be provided at the October 2013 meeting.

## **BACKGROUND PAPERS**

Ref: P/DM/SA/ENF/0497

## **LOCAL MEMBER NOTIFICATION**

CHELMSFORD – South Woodham Ferrers