

DR/14/17

committee DEVELOPMENT & REGULATION

date 25 March 2017

MINERALS AND WASTE DEVELOPMENT - ENFORCEMENT OF PLANNING CONTROL INFORMATION ITEM

Unauthorised Development – The use of the land for importation, deposition, storing, processing and spreading of waste materials (including soils, and other similar waste materials), subsequently raising the levels of the land (the unauthorised development).

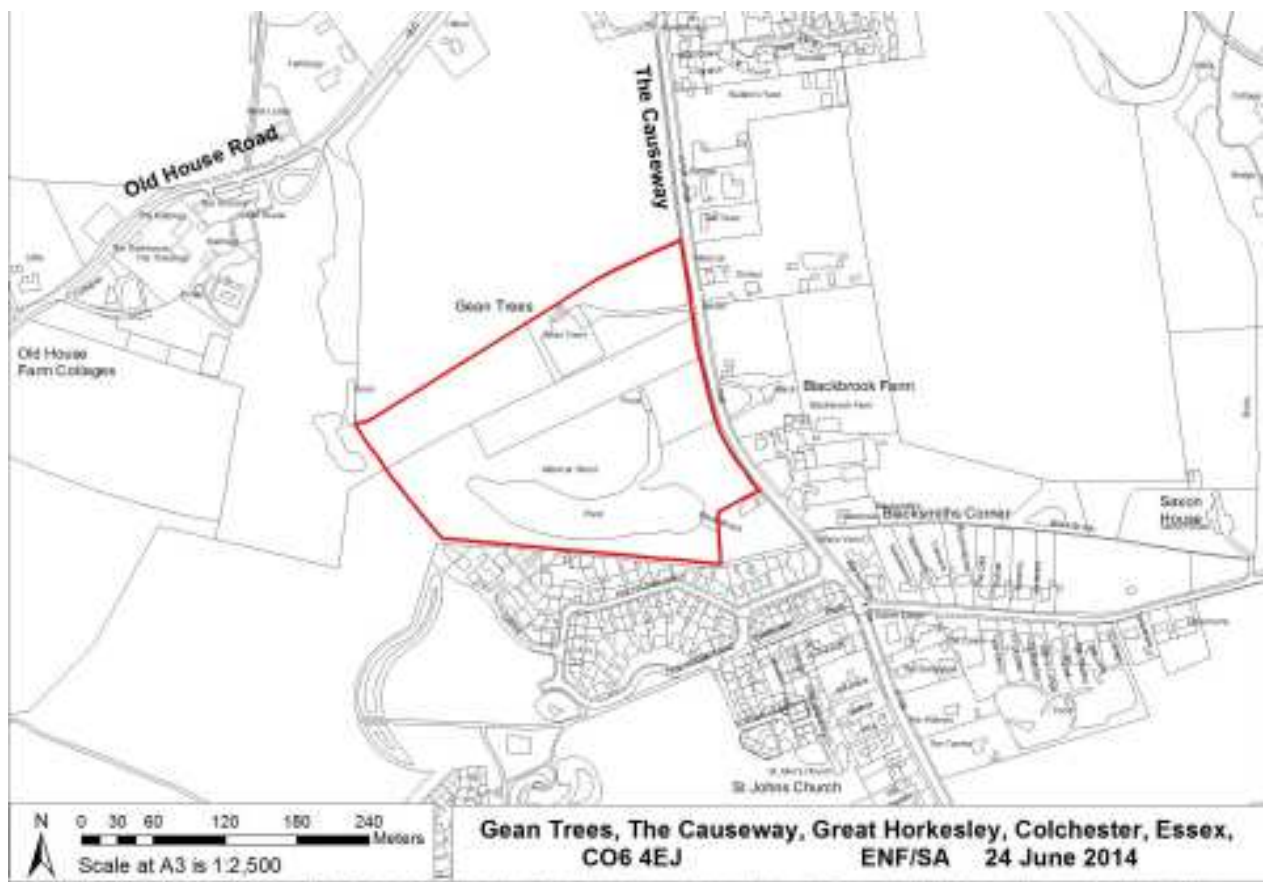
Location: **Land at Gean Trees, The Causeway, Great Horkesley, Colchester, Essex**

CO6 4EJ

Ref: **ENF/0656**

Report by Acting Head of County Planning

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1. BACKGROUND AND SITE

Geen trees is located within the village of Great Horkesley, north of Colchester. The site is located within a large plot of land consisting of a detached residential property, outbuildings, a wooded area and lakes.

The Waste Planning Authority (WPA) witnessed the importation, deposition, storing, processing and spreading of waste materials (including soils and other similar waste materials) on the land. Essex County Council (ECC) recognised the potential to involve the Environment Agency (EA) as the activities involved regulatory responsibilities of ECC as WPA and the EA as the regulatory authority for permitting activities.

ECC and the EA have adopted a Joint Enforcement Protocol. In this case there was an overlap between the planning enforcement activities of ECC and the regulatory responsibilities of the EA. Joint investigations and site visits commenced.

On the 1st July 2014 the WPA considered that in order to prevent further irreversible damage to the environment and countryside and to prevent prolonged detriment to the amenity of the area a Temporary Stop Notice (TSN) would be served on the land. Therefore on the 1st July 2014 a TSN was served on the land owner in respect of the unauthorised importation, deposition, storing and spreading of waste materials (including soils, and other similar materials).

The TSN required;

- Cease and do not resume the importation, deposition and spreading of waste materials on the land

Joint investigations continued and an enforcement notice was served by ECC on the 27th August 2015. Compliance was due by 28th January 2016.

The requirements of the enforcement notice were;

- Cease and do not resume the importation, deposition, storing and spreading of waste materials on the land;
- Remove from the land all waste materials, including imported soils, and other similar waste materials.
- Remove from the land all plant and machinery associated with the unauthorised development
- Restore the land to its condition prior to the commencement of the unauthorised development.

The waste on the land also breached the EA's waste exemption contrary to Environmental Permitting Regulations and the waste was required to be removed by both authorities.

2. CURRENT POSITION

The Temporary Stop Notice served on the 1st July 2014 was in force for 28 days and expired on the 28th July 2014. Since the service of the TSN the importation of the waste has ceased.

A joint site visit was undertaken on the 12th February 2016, by ECC and the EA. The purpose of this visit was to check compliance with the enforcement notice. The importation of waste had ceased and machinery had been removed, there was no evidence of further activity, however the waste remained on the land. A letter was sent to the land owner requiring compliance with ECC's enforcement notice. A further joint visit was carried out on the 10th November 2016 by ECC and the EA. The purpose of this visit was to check if any further progress had been made to comply with the enforcement notice served on the 27th August 2015. The waste remained on the land and the enforcement notice had not been complied with.

The change of use of the land for the importation deposition, storing, processing and spreading of waste materials substantially raising the levels is considered inappropriate development in this semi-rural area, has a harmful effect on the visual environment. The breach of planning control is visually intrusive and detrimental to the local amenity, landscape and character of the countryside meriting protection in the public interest.

The land had not been cleared of the waste materials and the WPA and EA proceeded with a prosecution in the Magistrates Court.

On the 6th March 2017 Essex County Council as Waste Planning Authority attended Chelmsford Magistrates Court to prosecute the land owner and tenant for failure to comply with the enforcement notice served on the 28th August 2015. The Environment Agency prosecuting for breaching a waste exemption.

At this hearing the defendants (land owner and operator) pleaded guilty to both offences.

The defendants (land owner and operator) were each sentenced to a fine and costs, which altogether totalled £66,493.00.

The court has issued a deadline of the 7th May 2017 for payment of this fine.

Officers from ECC and the EA are continuing to monitor the site.

LOCAL MEMBER NOTIFICATION

COLCHESTER - Constable