

## BMSDC PLANNING ENFORCEMENT CASE CLOSURE MEMO

|                           |   |  |
|---------------------------|---|--|
| <b>Address of breach:</b> | Land To The Rear Of<br>30 Edies Lane<br>Leavenheath<br>Colchester<br>Suffolk<br>CO6 4PA | <b>Enforcement case no:</b><br>EN/25/00366<br><b>Case Officer:</b><br>David Steel<br><b>Date received:</b><br>01.07.2025 |
|---------------------------|---|--|

### The Openness of Local Government Bodies Regulations 2014

The national regulations on openness and transparency in local government require the recording of certain decisions taken by officers acting under powers delegated to them by a council. The written record should include the following: The decision taken and the date the decision was taken; the reason/s for the decision; any alternative options considered and rejected; and any other background documents. This report and recommendation constitutes the written record for the purposes of the regulations and when read as a whole is the reason for the decision.

### **Brief description of breach(es):**

Alleged unauthorised use of land as domestic garden curtilage.

### **Constraints:**

|           |  |
|-----------|--|
| Priority: | Q20  |
| Parish:   | Leavenheath  |
| District: | BDC  |
| LB Grade: |  |
| Con Area: |  |
| Other:    | Mineral Consultation Area<br><br>CIL Charging Zone<br><br>Local Plan 2006 (BDC)<br><br>Airfield Safeguarding |

### **Relevant planning/enforcement history:**

#### **Planning History:**

|                                  |   |                      |
|----------------------------------|---|----------------------|
| <b>REF:</b> B/1041/83/FUL        | Erection of single storey side extension.                             | <b>DECISION:</b> GRA |
| <b>REF:</b> B/0281/76/OUT<br>REF | Erection of dwelling with garage and construction of vehicular access | <b>DECISION:</b>     |
| <b>REF:</b> B/0407/77/FUL        | Use of land for siting of residential caravan.                        | <b>DECISION:</b> GRA |

**REF:** B//90/01219 PART SUBMISSION OF DETAILS UNDER OUTLINE PLANNING PERMISSION B/89/1855 - EXTERNAL APPEARANCE OF DETACHED BUNGALOW AND GARAGE, THE MEANS OF ACCESS TO AND LANDSCAPING OF THE SITE AS AMENDED BY THE APPLICANTS REVISED DRAWING NO 1147/A/5 RECEIVED ON 01.03.91 AND AMPLIFIED BY APPLICANTS LETTER DATED 28.02.91 **DECISION:** GRA

**Enforcement History:**

**REF:** EN/25/00366 Enforcement Enquiry **DECISION:** PCO

**Summary of findings of investigation / complainant issues:**

Report / referral that some works to trees and an alleged expansion of the garden curtilage of the property was taking place,

The concern around trees was that there may be additional protections such as designated woodland or TPOs. I reviewed the relevant maps and Council records, and whilst the land is adjacent to a recognised "woodland", the area being worked within was not inside this. There were no TPOs.

A site visit was conducted and the owners met on site, they did not consent to pictures being taken but allowed me access to the land to the rear of the property.

The alleged works rather than tree "clearance" were the removal of scrub / brush and dead branches etc as the land had become overgrown. Though if any trees were felled or worked on, no breach would have occurred due to no additional protections.

The demarcation of the dwelling's curtilage is nuanced, as the property's garden extends naturally into the woodland to the rear of the property, though I had a discussion at length and supported by a follow-up letter with the owners about what the Council might consider "development" in need of Planning Permission, the letter was acknowledged with confirmation that only clearance as described above has occurred, currently they (the owners) have not built anything, not have appeared to act in such a way to change the "use" of the land, no breach is established.

**Alternative options considered:**

In making this decision there were no alternative options considered appropriate or applicable.

**Reason(s) for closure:**

No Breach Established

**Any declared conflict of interest in relation to the decision:**

None declared.

**Human Rights Act 1998 & Equality Act 2010:**

I have considered the Human Rights Act 1998 issues raised in relation to this Planning Enforcement investigation, including matters under Article 8 and the First Protocol. I consider that a proper decision in this case may interfere with human rights under Article 8 and/or the First Protocol. I have taken account of exceptions to Article 8 regarding National Security; Public Safety; Economic and well being of the Country; preventing Crime and Disorder; protection of Health and Morals; and, protecting the Rights and Freedoms of others. I confirm that the decision taken is necessary, not discriminatory and proportionate in all the circumstances of the case.

I have considered the Equality Act 2010 and the duty imposed under Section 149 to have regard to the need to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and, foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

For the reasons specified above I recommend that the case is closed.

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| Case/Recommending Officer: | Date:        |
| David Steel                | 21 July 2025 |

I agree the reasons stated by the above Officer and authorise closure of the case.

|                      |              |
|----------------------|--------------|
| Authorising Officer: | Date:        |
| Simon Bailey         | 21 July 2025 |

|                          |     |
|--------------------------|-----|
| Response to Complainant? | Yes |
| If no, state reason:     |     |

| Complainant name | Response Method: |       |        |
|------------------|------------------|-------|--------|
|                  | Email            | Phone | Letter |
| ██████████       | X                |       |        |
|                  |                  |       |        |