

**DCCW2006/0927/N - RETENTION AND RE-PROFILING
OF EARTH BUND AT HEREFORD CITY SPORTS CLUB,
GRANDSTAND ROAD, HEREFORD, HR4 9NG**

**For: Hereford City Sports Club per Mr. J. Spreckley,
Brinsop House, Brinsop, Hereford, HR4 7AS**

Date Received: 29th March 2006 Ward: Three Elms Grid Ref: 50120, 41416

Expiry Date: 24th May 2006

Local Members: Councillors Mrs. P.A. Andrews, Mrs. S.P.A. Daniels and Ms.A.M. Toon

1. Site Description and Proposal

- 1.1 The site is located in the centre of the southern part of Hereford Racecourse site in Grandstand Road, adjoining the race track on the south and Hereford Leisure Centre's ground on the east.
- 1.2 The proposal is to retain a substantial earth bund approximately 600 metres long, about 4 metres wide at the base and of variable height from 1.5 metres to 3 metres, remodelling it to a lower and wider profile, thereby reducing the gradient on either side. It has been constructed around all but the southern edge of the Hereford City Sports Club (HCSC)'s perimeter, enclosing four sports pitches and a floodlit training area on three sides. The material used appears to be imported waste soil containing mixed construction debris. The re-modelling work would involve peeling back the topsoil beside the bund, pulling the top layer of the bund into the resulting trench and then placing the saved topsoil over the top of the remodelled bund.
- 1.3 The applicant's agent has stated: "The intention of the provision of the bund was to provide a 'soft' boundary to delineate the extent of Hereford City Sports Club playing fields and to deter informal access and random trespass." In support of this new application, the agent states: "It is recognised that the current height, profile and finish of the existing bund could be greatly improved and made acceptable by re-profiling and sympathetic planting that would enable regular mowing. A further contamination survey has been carried out and this concludes that the material is 'fit for purpose'. The bund does not entirely enclose the playing fields and they remain open to the racecourse track. There is a gap of 6 metres to ensure tree and unrestricted access along the length of the running rail. Hereford Racecourse have raised no objection."

2. Policies

2.1 Regional Spatial Strategy (RSS):

Policy QE1	-	Conserving and Enhancing the Environment
Policy QE4	-	Greenery, Urban Greenspace and Public Spaces
Policy QE7	-	Protecting Character of Areas

2.2 Hereford and Worcester County Structure Plan:

Policy WD3	-	Sites for the Disposal of Waste
Policy CTC7	-	Landscape Features

Policy CTC9 - Development Control Considerations.

2.3 Hereford Local Plan:

Policy R1 - Public Open Space
 Policy CON19 - Protection of Townscapes, Settings and Vistas
 Policy R9 - Retention of Racecourse etc. as Open Areas
 Policy ENV4 - Groundwater
 Policy ENV14 - Design
 Policy ENV16 - Landscaping

2.4 Herefordshire Unitary Development Plan (Revised Deposit Draft):

Policy S1 - Sustainable Development
 Policy S2 - Development Requirements
 Policy S7 - Natural and Historic Heritage
 Policy S8 - Recreation, Sport and Tourism
 Policy S10 - Waste
 Policy S11 - Community Facilities
 Policy DR1 - Design
 Policy DR2 - Land Use and Activity
 Policy DR4 - Environment
 Policy DR10 - Contaminated Land
 Policy LA6 - Landscaping
 Policy HBA9 - Protection of Open Areas
 Policy RST1 - Criteria for Recreation, Sport and Tourism Development
 Policy RST4 - Safeguarding Existing Recreational Open Space
 Policy W2 - Landfill or Landraising
 Policy W8 - Waste Disposal for Land Improvement
 Policy CF6 - Retention of Existing Facilities

3. Planning History

Adjoining, within open space:

- 3.1 HC960328PF Club house renovation, bowling green, tennis courts. Granted 6th January 1997.
- 3.2 CW1999/1331/F Change of use for motorcycle training. Granted 8th July 1999.
- 3.3 CW1999/3155/F Canter down/service track to racecourse. Granted 24th January 2000.
- 3.4 CE2002/0163/F Erection of floodlights. Granted 15th March 2002.

On site:

- 3.5 CW2005/2163/N Retention of earth bund. Refused 30th September 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 Environment Agency: Comments that the site is on a minor aquifer of high vulnerability and considers it to be a potentially sensitive location with respect to the protection of controlled waters. The Agency has considered a further report dated January 2006 commissioned by HCSC from Sutton Surveys (Reference SS-05-203) intended to complement their original contamination check dated April-May 2005 (Reference SS-05-167). The Agency commented on 1st August 2005 that they do not object in principle to the use of top soil as a bund but expressed doubts about the suitability of the material that has actually been used. Previous samples had been insufficient to assess risks to controlled waters or suitability of the material. They recommended conditions requiring a series of precautionary measures including a desktop study to establish the source of the material, followed by site investigations and a method statement, and a verification report following remediation works.

The Agency's second response, of 5th May 2006, refers to the new Sutton Surveys report, but still maintains a need for all of the precautionary conditions previously required, should permission be granted. This suggests that they do not accept the new report as being adequate for their requirements.

Internal Council advice

- 4.2 The Head of Environmental Health and Trading Standards has expressed similar doubts and while not objecting to the proposal in principle, would require more information to take account of any risk to human health, through further sampling and assessment including consideration of disturbance to the waste material in the course of remodelling the bund. The response asserts that previous advice has not been followed, the Sutton Surveys report noted above (SS-05-203) is "not written in an appropriate form in relation to good practice guidance i.e. CLR11 - Model Procedures for the Management of Contaminated Land". Concerns are also raised with regard to a lack of clarity in the report as to sampling procedures.
- 4.3 Parks, Countryside and Leisure Development Manager makes the following comments: "The concept of a gently sloping bunded area that is properly constructed would be acceptable in broad terms. However in this case it would provide little protection against dogs and bmx bikes. If the intention is to protect the site for the benefit of the sports club and its users, my view is that at best it will provide a weak deterrent".
- 4.4 Transport Manager has not raised any objections.
- 4.5 Conservation Manager has not raised any objections.

5. Representations

- 5.1 Hereford City Council has not raised any objection, but requests the application be determined strictly in accordance with adopted policy.
- 5.2 Letters of objection have been received from Mrs. C. Jennings, 1 Highmore Street, Hereford, Mr. & Mrs. G. Bennett, 101 Grandstand Road, Hereford, and B. Lawson, 34 The Vines, Grandstand Road, Hereford. Comments are summarised as follows:

- It is essential that all brick, concrete, stone metal and other rubbish should be removed;
- We are appalled at what the sports club are proposing. The bund is contaminated with various substances and in time any contaminants remaining in the soil will go on to contaminate the good soil (spread on top);
- We are surprised they say it was put there to stop dog owners allowing their animals fouling their sports areas, we resent this and have always together with other owners, have never allowed their dogs onto any sports or park areas;
- Planning is being sought for something that should never have been there in the first place.
- What (will be) the cost of the new proposal if carried out by responsible people, also where will they get enough topsoil, it is not a question of top-dressing as there is too much debris to cover;
- The bund is used by the groundsman to dump grass cuttings, it is used as a urinal as the men think they cannot be seen.

5.3 The applicant's agent has forwarded a copy of a letter from Mr. G. Robinson, coach at the adjoining Brookfield School dated 20th July 2005, in which he offers whole-hearted support for the proposal, because "for the first year ever we have been able to allow the students onto the field for various breaks in the knowledge that they are safe". A further undated supporting letter from Pershore Group of Colleges, who run Hereford United Youth Team, states that in using the football pitch no-one has been injured while fetching the ball (from the bund). Complaints had however been received about the Hereford Leisure Centre pitches nearby, in particular regarding litter on the pitches and intrusion from the general public "with pets or flying kites". "The bung (sic) helps promote a safe and public free zone for us to conduct matches".

The full text of these letters can be inspected at Planning Services: Minerals & Waste, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

- 6.1 The application is retrospective and a resubmission of an earlier application.
- 6.2 The site is owned by Herefordshire Council and leased to Hereford City Sports Club.

Background

- 6.3 Planning permission was not sought prior to the construction of the bund and Members may recall that a previous application to retain it (reference DCCW2005/2163N) was refused, following a site inspection on 18th April 2005, as being *inter alia* development that would be out of keeping with the open character of a public open space, and of a form that would be visually intrusive.
- 6.4 Several meetings took place following the refusal of the previous application variously between representatives of HCSC, their agent, a local Member and the Council's Waste Planning and Enforcement Officers. In essence the Council reasserted its position that ideally the bund material should be removed, and that enforcement action

was being considered as a matter of urgency. However in recognition of the likelihood of considerable difficulties arising for the club, it would be prepared to consider alternative arrangements - subject to full details being submitted as to methodology, risk assessment, and final landform.

- 6.5 In the original application, issues of concern and the reason for refusal centred around inconsistency with the open character of the area, visual intrusion, effects on the maintenance and enjoyment of the site, creation of an unnatural boundary on a public open space, and the potential risk to responding emergency services to the racecourse. Specifically it would conflict with Hereford Local Plan policy R9 to retain the racecourse area as "open land". In addition, the matter of the potential contamination of the material and also the unsuitable construction waste items visibly embedded in the bund (sizeable pieces of concrete, stone, brick, metal etc) remained unresolved.

The new application

- 6.6 In considering this resubmission to retain the bund it is necessary to examine whether the issues of concern have been addressed. It is also relevant to consider whether the remodelled bund would fulfil the original stated purpose of preventing trespass by people and animals.
- 6.7 There is no doubt that lowering and widening the profile of the bund would, if successful, reduce its visual impact and with careful seeding it would eventually green over. The height would be reduced to about 1.25 metres and the shallower slopes might allow mowing although it would still be quite steep, with a stated gradient of between 1:1.75 and 1:3. However it would still constitute an unnatural rampart-like boundary across open land at variance with Hereford Local Plan policy R9 mentioned above.
- 6.8 With regard to the impediment to emergency services, the applicant's agent has pointed out that there is a 6-metre gap between the end of the bund and the running rail of the racetrack and that Hereford Racecourse have not objected to the proposal. Nevertheless the bund would still constitute a barrier that emergency vehicles would need to negotiate around.
- 6.9 The main areas of concern however are the matter of contamination, risk assessment, and the methodology for the actual remediation work. The later Sutton Surveys report ref SS-05-203 dated January 2006 asserts that "*with regards to contamination, the soil may be regarded as 'fit for purpose' and classified as non-hazardous commercial waste and any concern about the contaminative potential of this imported material should now be resolved*" (para 1.54). However, the responses of both the Environment Agency and the Head of Environmental Health and Trading Standards suggest, as noted above, that there are still doubts and that further investigations and assessments would be necessary. These concerns might be controlled through conditions, if a detailed and comprehensive method statement for the works were to be submitted.
- 6.10 Both the Sutton Surveys report stress that "*there are other issues associated with these bund constructions*". From the Council's point of view these issues include working methods, health and safety during reconstruction, strategy for remodelling the material and removal of unsightly and dangerous waste items from the bund. No method statement was submitted with this application, and an initial verbal request for one resulted in a four-line response as follows, quoted in full:

"It is the intention that the oversize pieces (greater than nom. 250mm dia.) of debris within the existing bund will be removed manually by the banksman whilst the machine re-profiling in hand (sic). These pieces will be loaded daily and carted off site."

- 6.11 A subsequent formal written request was made to the agent, repeating the need for a detailed method statement to explain for the public record exactly how the work would be done, and requesting estimated timescales. It was suggested to the agent that 250mm diameter would be too high a threshold and that items larger than say a standard house brick should be removed along with all pieces of metal or other potentially dangerous objects encountered in the course of the work. The Council's letter also pointed out that Sutton Surveys' assertion that the material is "fit for purpose" does not make it inherently desirable or visually acceptable as the report referred to contamination only, and that we would need to know how the rejected material would be removed and to where.
- 6.12 A method statement was subsequently received giving more detail of the works. This would involve removing topsoil in a 3 metre wide trench next to the bund on the HCSC side and piling it up next to the trench. The top of the bund would then be pulled into the trench by machine, again from the HCSC side, reducing its height and re-profiling the gradient. The saved topsoil would be spread on top to depth of 200 mm. Any large pieces of debris loosened by this work would be manhandled by the banksman into a skip to be removed by licensed contractor.
- 6.13 Several questions immediately arise that are not addressed by this document or the details originally submitted in the application:
- If the bund is 3 metres wide at the base, the trench would be a further 3 metres wide, and the saved topsoil would be placed on the HCSC side of the trench, how could the excavator, stated by the applicant to have an 8m outreach, access the bund from the far side of the topsoil mounds? Would the machine have to drive over the saved topsoil, which would damage and compact it? No methodology is given as to how this could be achieved, or how the disturbed material would be prevented from spreading around the site or falling onto adjoining Leisure Centre land. No assumptions could be made as to the likely success of the exercise without further details of the methods to be used.
 - What calculations have been done to ascertain whether there would be sufficient topsoil to adequately cover the remodelled bund to the specified depth of 200mm? There would need to be significantly more than a 200mm depth existing in the 3-metre trench to cover the expanded top surface of the bund. It is of course possible that sufficient would be available, but the application does not say so or how the estimate has been established.
 - What measures would be taken if there were a shortfall in topsoil? Would it mean even more material being imported to the site? If so, from where would this be sourced? The Environmental Health response suggests that further testing of such extra imported material would be required including details of its source and suitability, so a methodology for this would also be necessary.
 - The work is estimated to take around 4 weeks subject to weather conditions. In the light of the Environment Agency's comments, what testing or sampling would be done during the disturbance of the material and how would health and safety issues be addressed, particularly if work was being undertaken while the pitches were in use? No details have been submitted that suggest the conditions required

by the Environment Agency and the Head of Environmental Health and Trading Standards would be likely to be met during the course of the work.

Conclusion

6.14 The Council needs to be satisfied that there would be no adverse environmental effects, and so far not enough information has been provided on any of the issues raised. In addition there remains the question as to the original purpose of the bund – to exclude trespassers and animals. While the existing unauthorised bund is of a height and profile to be effective in this respect, albeit at an unstable and dangerous gradient, it has not been made clear how a lower and gentler slope would be anything other than an attraction to youngsters and dogs. There would appear to be a conflict between the bund’s capacity to deter trespassers and yet at the same time avoid the visual and physical intrusion that has been so controversial.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. **The proposed remodelling would still be of a scale, layout and design which does not respect and is inconsistent with the existing open character and quality of the site, which would create an unnatural boundary between similar activities within a public open space, and as such would be contrary to Hereford and Worcester County Structure Plan Policies CTC7 and CTC9, Hereford Local Plan Policies R1, R89 and ENV14 and emerging Herefordshire Unitary Development Plan (Revised Deposit Draft) Policies RST1, RST4 and HBA4; furthermore, insufficient information has been submitted with regard to working methods and contingencies, testing for contamination of the bund material, removal of construction waste debris embedded in it and health and safety issues, to satisfy the Council that there would be no adverse environmental effects in accordance with Hereford and Worcester Structure Plan Policy ED3, Hereford Local Plan Policy ENV14 and Herefordshire Unitary Development Plan (Revised Deposit Draft) Policies S10 and W2.**

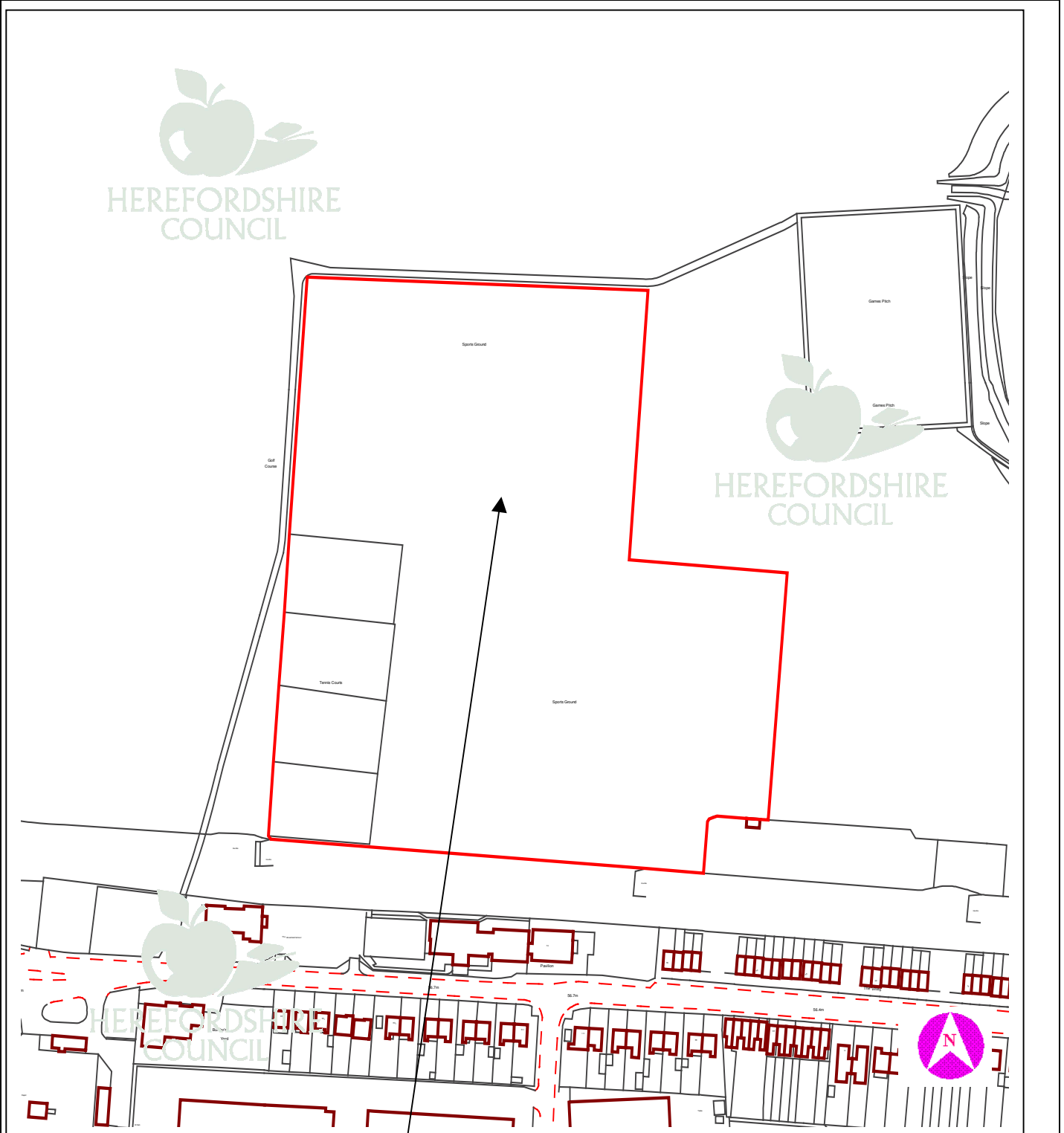
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCW2006/0927/N

SCALE : 1 : 2500

SITE ADDRESS : Hereford City Sports Club, Grandstand Road, Hereford, HR4 9NG

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