

Supplementary Papers

Development Control Committee

held in the Guildhall, Abingdon on Monday, 2nd June, 2008 at 6.30 pm

Open to the Public including the Press

17. **Enforcement Programme** (Pages 2 - 9)

To receive and consider report number 08/08.

**REPORT OF THE DEPUTY DIRECTOR (PLANNING AND COMMUNITY STRATEGY)
TO THE DEVELOPMENT CONTROL COMMITTEE**

2nd June 2008

Enforcement Programme

1.0 Introduction and Report Summary

1.1 This reports seeks approval of Committee to take enforcement action at;

Land adjacent to 7 Nash Drive, Abingdon, OX14 5PT

1.2 The contact Officer for this report is Paul Yaxley, Enforcement Officer (01235 540352).
paul.yaxley@whitehorsedc.co.uk.

2.0 Recommendations

(a) *That authority be delegated to the Deputy Director (Planning and Community Strategy) in consultation with the Committee Chair and/or Vice Chair, to take enforcement action against Mr G McIntyre of 7 Nash Drive, Abingdon, to remove the unauthorised fence and gates and cease the unauthorised use of the land as residential curtilage if he considers it expedient to do so.*

3.0 Relationship with the Council's Vision, Strategies and Policies

3.1 The content of this report is in line with objectives A, C and D of the Council's Vision Statement.

3.2 This report relates to Enforcement Strategies 13, 14, 15 and 16 and complies with Enforcement Policies E2 and E3.

4.0 Mr G McIntyre, 7 Nash Drive, Abingdon, OX14 5PT- ABG/265/1

4.1 This authority received numerous telephone calls during March 2008 informing that a post, rail and vertical metal fence has been erected around an area of open space on land adjacent to 7 Nash Drive, Abingdon. (Site plan attached at **APPENDIX 1**)

4.2 On a site visit of 1st April 2008 it was evident that small hedging shrubs were planted inside the fencing, a double gate erected (and locked with a padlock and chain), as well as four panels of close boarded fencing demarcating the curtilage of 7 Nash Drive having been removed indicating the area of land is now being used as extended curtilage to number 7 Nash Drive.

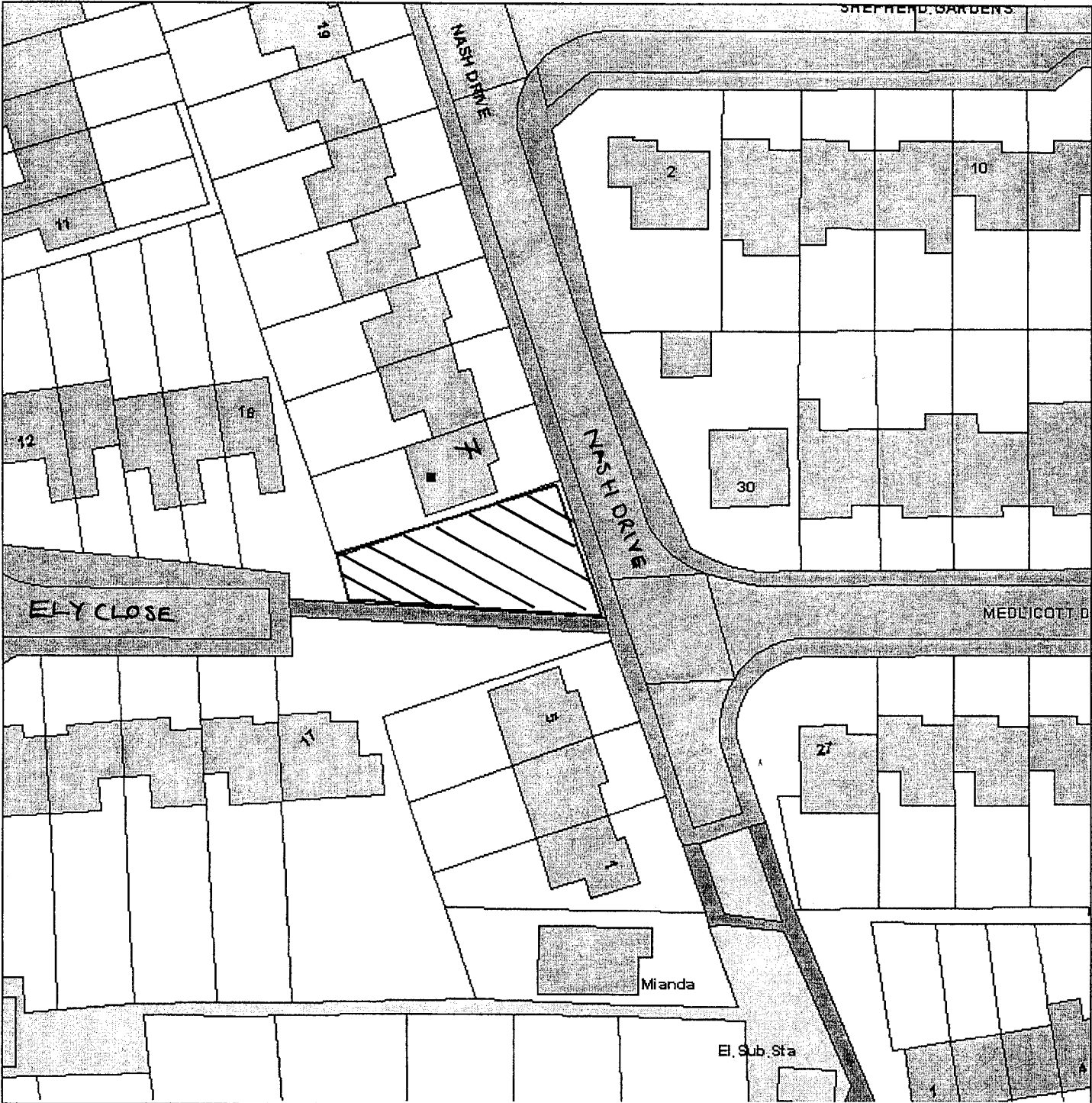
4.3 The area of open space adjacent to 7 Nash Drive is in the freehold ownership of Mr McIntyre- it is believed he purchased it directly from the original house builder in November 2006. As far as available records show, the land has never been in the ownership of the Council and therefore the Council has not been responsible for its upkeep or maintenance. 7 Nash Drive is a detached property at the end of a row of

detached properties on Nash Drive. The area adjacent to number 7, although in Mr McIntyre's ownership, is conditioned under Planning Permission ABG/265/1 granted in 1974 to be kept as open amenity 'play space'. (plan and decision notice attached at **APPENDIX 2**)

- 4.4 An outline planning application (ABG/6592/1-X) for the "erection of 2x2 bed dwellings" was submitted to this authority on 11th April 2007. The application was subsequently refused with one of the reasons for refusal being the above mentioned condition, and that the area in question should be retained as open space. For the same reasons stated above, it not considered appropriate to invite a retrospective application in this instance as, in Officer's opinion, any such application would be unlikely to be permitted. (Decision notice attached at **APPENDIX 3**)
- 4.5 Mr McIntyre has been advised by letter that the fence and the change of use of the land are unauthorised and that the land needs to be returned to its original state, i.e. open space. Mr McIntyre has appointed Solicitors who have questioned our reasoning and in response they have been made aware of this report and the recommendations.
- 4.6 The fence and gates are unauthorised and together with the ornamental planting indicate a change of use of this area of land to constitute an extension of the residential garden of 7 Nash Drive has occurred for which Planning Permission is required. This is in direct breach of the condition referred to in paragraph 4.4 above, and it is considered expedient in this case to secure the removal of the fence, planting and gates that facilitate the inclusion of this area as residential curtilage. This recommendation to take enforcement action could, if implemented, amount to an interference with Mr McIntyre's right to respect for his home under Article 8 of the European Convention on Human Rights. However, the unauthorised change of use is contrary to Policies H25, H23, L1 and DC9 of the adopted Vale of White Horse Local Plan. There does not appear to be any special circumstances to weight against this policy objection. Therefore, this interference is considered to be proportionate to the harm that would be caused if the unauthorised fence, gates and residential use were allowed to remain. Enforcement action is considered to be justified and in the public interest.

RODGER HOOD
DEPUTY DIRECTOR (Planning and Community Strategy)

STEVE BISHOP
STRATEGIC DIRECTOR



VALE OF WHITE HORSE DISTRICT COUNCIL

APPENDIX 2

THE ABBEY HOUSE ABINGDON OX14 3JE

TOWN & COUNTRY PLANNING ACTS, 1971-72

NOTICE OF PERMISSION

To **Alexander Coombes Limited**
190 Northolt Road,
South Marrow, Middlesex.

Application No. **ASG/265/1**
Proposal - Address **Erection of 60 houses, 4 garages with estate roads.**
(revised layout to roads C, E and F)
Ladygrove Farm,
Mill Road,
Abingdon.

The Vale of White Horse District Council, in pursuance of powers under the above Acts, hereby PERMIT the above development to be carried out in accordance with the application accompanying plans submitted by you, subject to compliance with the conditions specified hereunder.

1. The development hereby permitted shall be commenced within five years from the date of this permission.
2. Detailed particulars/Samples of all materials to be used externally in the construction of the development hereby permitted shall be submitted to and approved by the District Planning Authority before construction is commenced. This condition shall apply notwithstanding any indications as to these matters which have been given in the current application.
3. The consent site shall be landscaped and planted with trees and shrubs in accordance with a comprehensive planting and landscaping scheme (including programme) submitted to and approved by the District Planning Authority, and the trees and shrubs so planted shall be properly maintained and that in the event of any of the trees or shrubs dying or being seriously damaged or destroyed

The reasons for the Council's decision to grant permission for the development subject to compliance with the **Contd....** conditions hereinbefore specified are:-

1. Condition 1 is imposed pursuant to the requirements of Section 41 of the Town & Country Planning Act, 1971.
2. In the interests of amenity.
3. To enhance the amenities of the area.

Dated **2nd** day of **September** 1974

Planning & Development Officer

VALLE OF WHITE HORSE DISTRICT COUNCIL

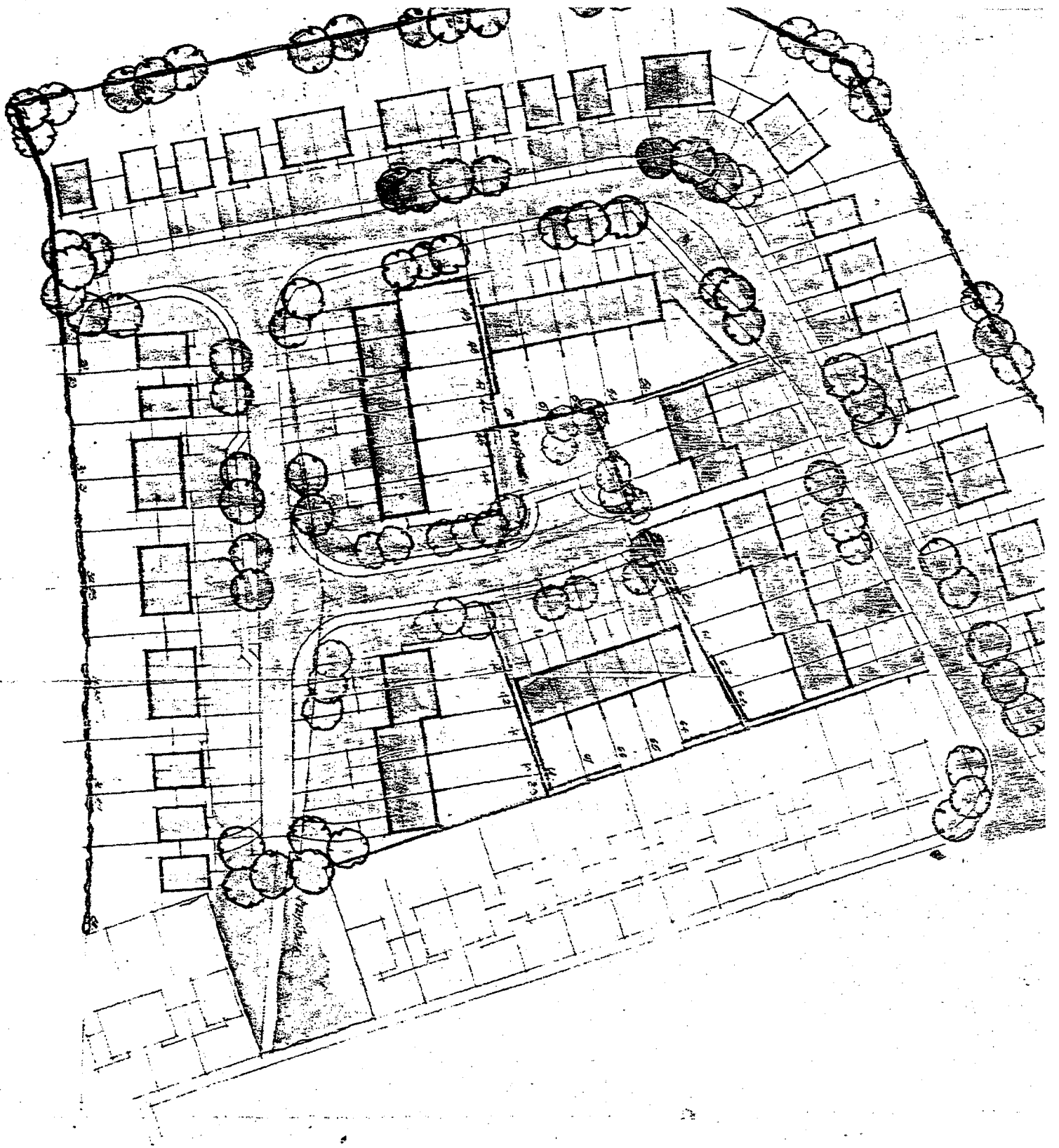
Application No. ABG/265/1

Proposal: Erection of 68 houses, 4 garages with estate roads.
(revised layout to roads C, E and F)
Ladygrove Farm, Mill Road, Abingdon.

3. Contd...
within five years after the date of planting, carried out in accordance with the approved programme, a new tree or shrub or equivalent number of trees or shrubs, as the case may be, of a species first approved by the District Planning Authority shall be planted in the subsequent planting season or within such other period approved in writing by the District Planning Authority and properly maintained in a position or positions first approved by the District Planning Authority.
4. Provision shall be made for services to be placed underground. No overhead forms of servicing shall be erected on the site, the subject of this permission.
5. The two areas of land labelled 'Play Space' on the plan hereby approved shall be retained as open spaces. Within three months of the occupation of the houses to be constructed in proximity to the proposed open spaces, or within such other time as may be agreed in writing with the District Planning Authority, the land shall be levelled and seeded down to grass. Thereafter, the areas shall be maintained to the satisfaction of the District Planning Authority.
6. In respect of all dwellings, no structure, wall, fence, hedge or gate shall be erected between the building line, and the highway unless permission has been granted by the District Planning Authority on an application made for the purpose.
7. Screen walls 6ft. high and built in brickwork of the approved types shall be constructed in the positions shown on the approved plan by the double open or double dashed lines concurrently with the dwellings of which they form part, to the satisfaction of the District Planning Authority.
8. Turning spaces to County Highway specification shall be constructed at the ends of the cul-de-sac roads "C" and "E".

REASONS FOR CONDITIONS

4. In the interests of amenity
5. To ensure that an adequate area of public open space is available in relation to the population expected to be accommodated on this land.
6. In the interests of the appearance of the whole estate of which this site forms part.
7. In the interests of amenity.
8. In the interests of highway safety.



APPROVAL OF DETAILS
 REFUSAL

APPROVED
 2/9/74

APPROVED
 2/9/74

AMENDED LAYOUT TO ROAD

C. E. G. A.

SCALE 1" = 50'

DATE 10-6-74

DESIGNED BY 208 N. 29th

CONTRACTOR COMPANY INC.

130 NORTH 29th ST.

2507 N. HARLOW AVE. BOX

TEL: 254-844-2400

LABYRINTH PLAN
 MILL ROAD
 208 N. 29th



**Vale
of White Horse**

COPY

07/00566/OUT
Mr Stuart Walker
DCREOUTZ(P23)2/03

TOWN AND COUNTRY PLANNING ACT 1990

NOTICE OF REFUSAL

To:

Mr G McIntyre
c/o G A J Soame & Associates
Acre Cottage
Chapel Road
South Leigh
Witney
Oxon
OX29 6UP

Application No: ABG/6592/1-X

Proposal;

Erection of 2 x 2 bedroom dwellings. (Land Adjoining 7 Nash Drive)

Address:

7 Nash Drive Abingdon Oxon OX14 5PT

DATE OF DECISION: 17th May 2007

The Vale of White Horse District Council, in pursuance of powers under the Above Act, hereby **REFUSE** to permit the above development in accordance with the plans and application submitted by you, for the reasons specified hereunder:

1 The proposal will result in the loss of an area of open space that is important to the local community. Furthermore, the proposed dwellings, by virtue of the size of the site would result in a cramped form of development that would have a detrimental impact on the character and appearance of the locality when viewed from the public realm. As such, the proposal is contrary to Policies H10 and DC1 of the adopted Vale of White Horse Local Plan 2011.



2 The proposal would result in the loss of trees covered by a tree preservation order and would threaten other trees on site also covered by a tree preservation order. The loss of trees in this part of Abingdon would seriously detract from the character and appearance of the area and therefore the development would be contrary to Policy DC6, of the adopted Vale of White Horse Local Plan 2011.

Rodger Hood
Deputy Director (Planning and Community Strategy)