

REGULATION COMMITTEE

Tuesday, 7th May, 2024

10.00 am

**Council Chamber, Sessions House, County Hall,
Maidstone**





AGENDA

REGULATION COMMITTEE

Tuesday, 7th May, 2024, at 10.00 am
Council Chamber, Sessions House, County Hall, Maidstone

Ask for: **Hayley Savage**
Telephone: **03000 414286**

Membership (15)

Conservative (10): Mr S C Manion (Chairman), Mr D Beaney, Mr T Bond,
Miss S J Carey, Mr P Cole, Mr M C Dance, Mr J M Ozog,
Mrs L Parfitt-Reid, Mr H Rayner and Vacancy

Labour (2): Mr B H Lewis and Ms J Meade

Liberal Democrat (1): Mr I S Chittenden

Green and Independent (2): Mr M Baldock and Peter Harman

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Apologies and Substitutes
2. Election of Vice-Chair
3. Declarations of Interests by Members in items on the Agenda for this meeting.
4. Minutes (Pages 1 - 12)
 - (a) Committee: 30 January 2024
 - (b) Member Panel: 24 November 2023
 - (c) Mental Health Guardianship Sub-Committee: 18 January 2024 – for noting
5. Update from Public Rights of Way and Access Service (Oral Report)
6. Update on Planning Enforcement Issues (Pages 13 - 18)
7. Future Meeting Dates

To note that meetings of the Regulation Committee will take place on the following dates:

Tuesday 17 September 2024 at 10am

Tuesday 21 January 2025 at 10am

Tuesday 17 June 2025 at 10am

All meetings will be held in the Council Chamber, Sessions House, Maidstone, Kent ME14 1XQ.

8. Other Items which the Chairman decides are Urgent

Motion to exclude the press and public for exempt business

That under section 100A of the Local Government Act 1972 the public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.

EXEMPT ITEMS

(During these items the meeting is likely NOT to be open to the press and public)

9. Update on Planning Enforcement Cases (Pages 19 - 42)

Benjamin Watts
General Counsel
03000 416814

Friday, 26 April 2024

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 30 January 2024.

PRESENT: Mr S C Manion (Chairman) Mrs S Hudson (Vice-Chairman)
Mr M Baldock, Mr T Bond, Miss S J Carey, Mr P Cole, Mr M C Dance, Mr B H Lewis,
Ms J Meade, Mr J M Ozog, Mrs L Parfitt-Reid and Mr H Rayner

IN ATTENDANCE: The Planning Enforcement Team Leader, Mr G Rusling (Public Rights of Way & Access Service Manager), Mrs S Thompson (Head of Planning Applications), The Senior Planning Enforcement Officer, Ms H Savage (Democratic Services Officer) and Mr A Ballard (Principal Democratic Services Officer)

UNRESTRICTED ITEMS

49. Membership

(Item 1)

RESOLVED to note that Miss Carey had joined the committee.

50. Apologies and Substitutes

(Item 2)

Apologies were received from Mr Beaney and Mr Chittenden.

51. Declarations of Interests by Members in items on the Agenda for this meeting.

(Item 3)

There were no declarations of interest.

52. Minutes

(Item 4)

1. Mr Baldock raised some points in relation to the Regulation Committee Member Panel minutes of 24 November 2023 and it was agreed this would be discussed outside of the meeting.

RESOLVED that:

- (a) The minutes of the Committee meeting on 17 October 2023 are correctly recorded and that they be signed by the Chairman.
- (b) The minutes of the Regulation Committee Member Panel on 15 September 2023 are correctly recorded and that they be signed by the Chairman.

- (c) The minutes of the Regulation Committee Member Panel on 20 September 2023 are correctly recorded and that they be signed by the Chairman.

Post meeting note:

The minutes of 24 November 2023 were subsequently amended, at paragraph 12 of Item 4, to clarify that whilst the Chair of Bobbing Parish Council was present, the Parish Council had not taken a formal position on the application.

53. Home to School Transport Appeals Update

(Item 5)

1. The Principal Democratic Services Officer introduced the report which provided an overview of Home to School Transport Appeal statistics for the period between 1 January and 31 December 2023 and a comparison of those from 2010 to 2022. The Principal Democratic Services Officer explained that an approximate cost of successful appeals had been incorporated into the report.
2. The Chair thanked Members who sat on the School Transport Appeal Panels.

RESOLVED that the report be noted.

54. Update from the Public Rights of Way and Access Service - Common Land and Village Greens

(Item 6)

1. The Public Rights of Way and Access Service Manager introduced the report and explained the Council's role as a 'Village Greens & Commons Registration Authority'. The Public Rights of Way and Access Service Manager explained that most applications received were made under the Commons Registration Act 2006 and voluntary applications could also be made under the Act. Over the last year nine applications had been determined by the Council. Four applications had been received in 2023 (including two voluntary applications) and three further applications had been received since the report was written.
2. The Public Rights of Way and Access Service Manager provided an update on the village green application at Westbere which was due to be considered at a Member Panel following a Public Inquiry, and Bunyards Farm which was considered at a Member Panel in September 2023.
3. The Public Rights of Way and Access Service Manager said there were three applications to amend the Register of Common Land including one with the Planning Inspectorate and two which would be considered by a Member Panel in due course.
4. Mr Dance asked about growth areas in relation to staffing levels and the Public Rights of Way and Access Service Manager said work relating to village greens was not a growth area due to changes in legislation in recent years. In relation to Public Rights of Way (PROW) applications, this area was growing due to government's intention to close the map to new applications based on historical evidence. The backlog for PROW applications was 86 cases, and at the current rate of progress this equated to a backlog of about 5 years. The Public Rights

of Way and Access Service Manager was hopeful that changes under the Deregulation Act 2015 would ease that burden.

RESOLVED that the report be noted.

55. Update on Planning Enforcement Issues

(Item 7)

1. The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 17 October 2023.
2. The Head of Planning Applications said the strategic sites which had an alleged organised waste criminal element had increased and the Council continued to work within a multi-regulatory team setting which ensured that all available enforcement options could be maximised. The Environment Agency was leading on a number of those cases, alongside the County Council.
3. The Head of Planning Applications provided an update on new provisions for planning and enforcement under the Levelling Up and Regeneration Act 2023 which would be made available to planning authorities. These provisions included the requirement to serve another formal action within 56 days (currently 28) of serving a temporary stop notice, new commencement and completion notices, an increase of the 'four year rule' to ten years, a new Enforcement Warning Notice where a breach of planning control could be addressed by a planning application, changes to the appeal process, and an increase in fines.
4. Members discussed the completion of roads to a required standard by developers prior to adoption by a planning authority and The Head of Planning Applications said a completion notice could potentially be a useful tool in this regard.

RESOLVED that the actions taken or contemplated in the report be noted and endorsed.

56. Other Items which the Chairman decides are Urgent

(Item 8)

There were no urgent items.

57. Update on Planning Enforcement Cases

(Item 9)

EXEMPT ITEMS (Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act)

1. The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 17 October 2023.

2. The Planning Enforcement Team Leader and the Head of Planning Applications gave an update on unauthorised planning enforcement matters and permitted compliance work setting out actions taken or contemplated at Hoads Wood, Bethersden, Ashford; Swanton Lane, Littlebourne, Canterbury; Ancient Woodland Adjacent to Knoxfield Caravan Site, Dartford; Oaktree Farm, London Road, Halstead; Warden Point/Third Avenue, Eastchurch, Isle of Sheppey; Raspberry Hill Park Farm, Iwade; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Malling Road, Teston; Court Paddock Farm, Ightham; Former Travel Lodge/Brother Hood Woods, Boughton Bypass Dunkirk; Court Farm, Thurnham, Maidstone; Squidsgate, Challock; Parefield Wood, Fawkham, Pilgrims Lodge, Detling; Dering Woods, Ashford; Hawthorn Cottages, Herne Bay; Cobbs Wood Industrial Estate, Ashford; Old Tilmanstone Colliery, Pike Road, Eythorne; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; Teston Bridge Country Park, Teston Lane, Maidstone; East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham.
3. The Head of Planning Applications amended her recommendations in the report relating to Warden Point/Third Avenue and former Travel Lodge/Brother Hood Woods and this was unanimously agreed.
4. The Head of Planning Applications amended her summary of proposed actions relating to Borough Green Sandpits and Wrotham Quarry (Addington Sandpit) and this was unanimously agreed.

RESOLVED that subject to paragraphs 3 and 4 above the enforcement strategies outlined in paragraphs 5 to 134 of the report be noted and endorsed.

KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Bobbing Village Hall, Sheppey Way, Bobbing, Sittingbourne ME9 8PL on Friday, 24 November 2023.

PRESENT: Mrs S Hudson (Vice-Chairman in the Chair), Mr P Cole, Mr M C Dance, Peter Harman and Mrs L Parfitt-Reid

IN ATTENDANCE: Ms M McLauchlan (Definition Officer), Mr G Rusling (Public Rights of Way & Access Service Manager), Ms H Savage (Democratic Services Officer) and Mr M Tonkin (Public Rights of Way Officer)

UNRESTRICTED ITEMS

15. **Application to divert part of Public Footpath ZR681 from the foot crossing to a new route parallel to the northern platform at Teynham in the Borough of Swale**
(Item 3)

Mr Damian Hajnus (Network Rail), Rich Lehmann (Local Member), Mr David Lindop, Mr Steve Obeirne and Mr Paul Townson were in attendance for this item.

1. The Members of the Panel visited the site of the proposed diversion prior to the meeting. This visit was also attended by Rich Lehmann (Local Member), Ms Gemma Kent from Network Rail (the Applicant) and approximately 8 members of the public. Panel Members inspected the crossing point and observed the visibility lines along the railway and viewed the route of the proposed footpath from the station platform.

2. Mr Michael Tonkin, Public Rights of Way Officer, introduced the report which set out the application the County Council had received from Network Rail to divert part of Public Footpath ZR681 at Teynham.

3. Mr Tonkin explained that a number of risk assessments had been carried out on the footpath crossing by Network Rail, and the crossing was currently closed under a Temporary Traffic Regulation Order (TTRO) due to associated risks and a near miss in November 2022. He explained that if the crossing were to be opened at the time of the meeting it would be the second highest risk footpath crossing in Kent.

4. Mr Tonkin said the number of train movements passing over the level crossing was averaged at 183 per day, with an up-line speed of 90mph, and a down-line speed of 75mph. He noted that the up-line speed had been restricted to 80mph in an attempt to mitigate the risk at the level crossing. The main concerns for Network Rail at the crossing were insufficient sighting, high level of users, misuse of the crossing, the proximity of the level crossing to a railway station, and a large number of vulnerable users, including the elderly and children.

5. Mr Tonkin explained the legislation in relation to the diversion of a public path at a rail crossing contained within Section 119A of the Highways Act 1980, and the tests and criteria, detailed in the report, to be considered under Rights of way circular 1/09.

6. Mr Tonkin said that consultations had been carried out as required by the Highways Act 1980 and a number of objections had been received. He highlighted an error in the report in that Councillor Lloyd Bowen, not Councillor Mike Whiting, had responded with an objection.

7. Mr Tonkin discussed the consultation responses and the evidence received in conjunction with each of the legal tests to be considered and concluded that the case was finely balanced and slightly weighted in Network Rail's favour. He said Network Rail had a safety case and, for the reasons set out in the report and explained to the Panel, the tests under Section 119A of the Highways Act 1980 had been met. He explained that some members of the public who responded objected to the considerably longer route and its convenience. He said rail crossing orders were invariably finely balanced, especially when the reason was on a basis of safety, and it was believed that Network Rail's safety case needed to be considered with greater weight. He referred to two recent rail diversion orders, in Otford and Whitstable, where safety was noted as the primary motivator for the diversion.

8. Mr Tonkin explained that the decision made by the Panel today was not the final decision and the next stage would involve a formal consultation.

9. Mr Tonkin recommended to the Panel that the Applicant be informed that an Order to divert Public Footpath ZR681 from the railway foot crossing to an alignment running parallel to the northern platform of Teynham Station in the Borough of Swale, be made.

10. Mrs Parfitt-Reid asked about the consideration of a footbridge and Mr Tonkin explained this had been discounted for accessibility reasons and clarified that there was not enough room at the site for a slope bridge.

11. Mr Cole agreed that the case was finely balanced and said there was a fundamental argument for freedom of choice. He felt that most behaviour-related safety risks included in the application could be applied to any crossing in the UK. He said people had the right to make decisions and questioned the timing of the application if safety incidents had taken place since 2017.

12. The Applicant, Mr Damian Hajnus (Infrastructure Liability and Contracts Manager – South Region, Network Rail) addressed the Panel. He said Network Rail was subject to a strict regulatory duty and its primary duty was to provide a safe and efficient railway network. He said it was a balancing exercise to ensure maximum safety to passengers and staff whilst trains ran on time. In 2019 Network Rail embarked on a strategy to reduce risk on crossings and this was therefore a preventative, not reactive exercise. Mr Hajnus reiterated the main risk factors included in the report and highlighted by the Public Rights of Way Officer, including the large number of users (and vulnerable users), the high speed of trains on the line and the limited time users had to react at sight of a train. Mr Hajnus said there had been repeated instances of misuse and the diversion had been carefully selected from a number of options, and the proposed route was much safer. He concluded that he was strongly in favour of the order being made.

13. Councillor Lloyd Bowen (Councillor to Teynham and Lynstead Ward, Swale Borough Council) addressed the Panel in objection to the application. He said he was a long-time user of the crossing, and the proposed diversion would have an effect on people's mental health and on the community. Councillor Bowen said not all eventualities could be covered and compared the crossing to others in the area. He suggested

potential adjustments that could be made and said it was essential that the voices of residents were heard. He said the closure of the crossing affected the connectivity and vitality of local business.

14. Mr David Lindop addressed the Panel in objection to the application. He referred to the proposed diversion route which included many trees that acted as a natural screen against the sound and light of the railway. He said the removal of trees would cause disruption and would have an impact on biodiversity and wildlife. Mr Lindop referred to the increase of crime and disorder at the station and said the proposed diversion would bring that closer to residents, including a risk of vandalism to property.

15. Mr Steve Obeirne addressed the panel in objection to the application and referred to the proposed division going through the station car park and said he was concerned for the road safety at the vehicular level crossing.

16. Mr Paul Townson (Chairman of Teynham Parish Council) addressed the Panel and said the crossing was a popular route for residents walking dogs, residents who lived in Conyer who were coming to Teynham to access the school and shops, and the pathway formed part of a fruit walk. He said safety was recognised by residents and he suggested some practical solutions to improve this. Mr Townson also raised some road safety concerns in relation to the proposed diversion.

17. Mr Rich Lehmann (Local Member) addressed the Panel and expressed the view that not enough consideration had been given to the current crossing and suggested some improvements to make the crossing safer including moving it further west, decreasing train speed limits, and additional warning signs. He questioned how much consideration had been given to alternative diversion routes and raised the issue of road safety risks of the proposed diversion and questioned whether the danger was being shifted from one place to another.

18. Mr Damian Hajnas (Infrastructure Liability and Contracts Manager – South Region, Network Rail), as landowner, responded to some of the points raised. He said, regarding the possibility of a footbridge, Network Rail had considered all the issues including protective characteristics of individuals, value for money and the significant planning issues it would entail. He said Network Rail's principal objective was safety and level crossings were inherently dangerous. In terms of user behaviour and personal responsibility Network Rail considered everybody's safety which included those who were unwell, distracted, young or vulnerable. The mitigation of risk in relation to children had resulted in the speed of the trains being reduced and this was only done in exceptional circumstances. None of the mitigation measures considered would deliver value for money or reduce the risk. He said he was sympathetic regarding the safety of the proposed path behind the platform as it had not yet been tested, and it was expressed openly in the consultation that reasonable measures would be considered, however, he said there was not any evidence to support security issues on the proposed path. He said the land was bought for running the railway and it was not environmentally protected. Regarding road safety of the proposed diversion, he said this was raised early in the consultation with KCC highways and concluded that mitigation measures would be deployed and funded by Network Rail.

19. The Chair invited comments from the Panel.

20. Mr Harman thanked all those who spoke at the meeting. He acknowledged the importance of the safety issues within the risk assessment whilst noting that some level of risk had to be accepted. Mr Harman compared the level of risk against the practicality and cost of the proposed solution.

21. Mr Dance expressed concern for the brick railway building on the down side at the London side of the crossing hindering the vision of trains from London.

22. Mrs Parfitt-Reid said there was always risk and personal accountability could not be mitigated against. She said on balance the proposed diversion was costly for something not supported by the community.

23. Mr Cole questioned why, if safety was the primary element, applications had not been made earlier and whether full exploratory work into different mitigation measures had been explored.

24. The Chair put the recommendation set out in the report to the vote and the Panel agreed unanimously to refuse the order.

RESOLVED that the Applicant be informed that an Order to divert Public Footpath ZR681 from the railway foot crossing to an alignment running parallel to the northern platform of Teynham Station in the Borough of Swale has been refused.

16. Application to divert part of Public Footpath ZR109 from the foot crossing known as Simpsons Crossing at Bobbing in the Borough of Swale
(Item 4)

Mr Damian Hajnus (Network Rail), Mr Mike Baldock (Local Member), Mr Gareth Randall and Mr Graham Herbert were in attendance for this item.

1. The Members of the Panel visited the site of the proposed diversion prior to the meeting. This visit was also attended by Ms Gemma Kent from Network Rail (the Applicant).

2. Ms Maria McLauchlan, Public Rights of Way Officer, introduced the report which set out the application the County Council had received from Network Rail to divert part of Public Footpath ZR109 at Bobbing.

3. Ms Maria McLauchlan said the most recent risk assessment was carried out on 2 March 2020 following a near miss on 21 February 2020. The crossing scored a risk rating of C3 (it was C5 in 2013) on Network Rail's All Level Crossings Risk Model ("ALCRM"). This meant it had a high to medium level of both individual and collective risk. At that time, the crossing was ranked as 13th out of all crossings in Kent, and 2nd highest for footpath crossings.

4. Ms McLauchlan said the key drivers for the application on the grounds of safety were frequency and variety of train movements (including the high-speed passenger services), high levels of use particularly of vulnerable users such as the elderly and children and increased evidence of misuse.

5. Due to the risks associated with the crossing, use of the footpath had been prohibited by a Temporary Traffic Regulation Order since March 2021, initially for a period of 6 months and then extended for another two years until September 2023. A further extension of 2 years had been granted by the Department of Transport, lasting until September 2025.

6. Ms McLauchlan explained that the same legal tests and government guidance to be considered under Rights of way Circular 01/09 were applied as in the case for Teynham West (Item 3) and as set out in the report.

7. Ms McLauchlan discussed the consultation responses and the evidence received in conjunction with each of the legal tests to be considered and concluded that in this case Network Rail had put forward such a safety case as to warrant a temporary Traffic Regulation Order closing the crossing until a suitable alternative could be found, and due to limitations at the site, it was recognised that alternative solutions were also limited. Whilst it was understood that the new route would inconvenience some users of the path, this diversion appeared to be the best proposal that could be found. She said officers were therefore satisfied, for the reasons set out in the report and explained to the Panel, that the legal test of safety was met and that other considerations had been applied.

8. Ms McLauchlan set out the recommendation that the Applicant be informed that an Order to divert part of public footpath ZR109 from the foot crossing, known as Simpsons Crossing, at Bobbing in the Borough of Swale be made on the grounds that it was expedient to divert the path on the grounds of safety of the public.

9. Mr Dance left the meeting.

10. Mr Harman asked about line speed and whether the biggest safety risk was the users rather than the crossing itself and Ms McLauchlan said the misuse of the crossing was part of the safety element.

11. The Applicant, Mr Damian Hajnas (Infrastructure Liability and Contracts Manager – South Region, Network Rail), highlighted that the main risk factors were objective and included the frequency and speed of travelling trains (including variance in train speeds) which affected the perception of risk, and a large number of users were vulnerable ie they were children, the elderly or distracted which impaired their ability to react. He said the safety arguments were well tested and the crossing was evidently unsafe, and the crossing should be closed. He said Network Rail did not consider the risk would be displaced from railway to the road and it welcomed further enhancements to the proposed diversion being brought.

12. Mr Gareth Randall addressed the Panel in support of the application. He explained that whilst he was the Chair of Bobbing Parish Council, the Parish Council had not taken a formal position on the application and he did not speak on their behalf. He said the proposed diversion provided two additional benefits including accessibility (the current crossing had gates which were difficult to pass through for those with pushchairs and bikes) and the removal of the need for trains to sound their horns. Mr Randall said he took a pragmatic approach in that he would like access across the railway again for residents and he understood funding was not available for a bridge.

13. Mr Graham Herbert reinforced the points made by Mr Randall and raised the issue of vehicles parking alongside Sheppey Way Bridge, to which Ms McLauchlan confirmed officers had consulted with Kent Highways who were happy with the proposed diversion.

14. Mr Mike Baldock, Local Member, addressed the Panel in objection of the application and said he had personally used the crossing for 50 years and it had been used for generations by the public. Mr Baldock said, since the crossing was closed, there had been a greater number of safety incidents and the application had over exaggerated the risk and was misleading. He said examples of misuse could apply to any rail crossing. Mr Baldock said most users crossed safely and the claim the crossing was dangerous was unsubstantiated. He said there was a risk that people would continue to use the embankment to cross (via the bridge) if the crossing was not reopened and the proposed diversion under the bridge would be used for antisocial behaviour. Mr Baldock suggested the crossing be reopened with measures put in place to make it safer

including, for example, adequate signage and crossing lights, and that the risk be assessed again after a year.

15. Mr Damian Hajnas (Infrastructure Liability and Contracts Manager – South Region, Network Rail), as landowner, responded to some of the points raised. He said the evidence in favour of the order was before the Panel and clarified that Network Rail had not made the application for convenience or to gain anything financially. He reiterated Network Rail's strict regulatory obligation for safety. He said every option had been explored to minimise the impact on the public and the proposed diversion was the only practicable option. In response to the allegation that Network Rail had exaggerated the evidence Mr Hajnas said they had video footage of people risking their lives on the railway. In relation to the risk assessment on the proposed diversion he said KCC were consulted and barriers alongside Sheppey Way would be enhanced. He said there was not any evidence to suggest that the proposed division would attract antisocial or criminal behaviour.

16. The Chairman invited comments from the Panel.

17. Mr Harman said fatalities by suicide were not a reason to close the crossing and suggested solutions could be put in place to deal with misbehaviour on the railway.

18. Mrs Parfitt-Reid felt this was a sensible diversion as it seemed relatively short but felt there was an argument for and against the recommendation.

19. Mr Cole referred to previous near miss incidents in 2019 and said an attempt to close it then was not made until one incident in 2020 which led to Network Rail applying for a TTRO. Mr Cole asked what the definition of a near miss was and whether anything had changed over the last four years since the incidents in 2019. Mr Hajnus said a near miss was identified at the discretion of the train driver if they were required to apply the emergency break, and it was their responsibility to report it. He said there were numerous other near misses reported as part of the TTRO application and Network Rail had been observing the crossing and working to make it safer for several years.

20. The Chair commented that she was aware of the video footage, but judgments should be based on the evidence presented in the report and to the Panel.

21. The Chair put the recommendation set out in the report to the vote and it was agreed by majority.

RESOLVED that the Applicant be informed that an Order to divert part of public footpath ZR109 from the foot crossing known as Simpsons Crossing, at Bobbing in the Borough of Swale, will be made.

17. Other items which the Chairman decides are urgent
(Item 5)

There were no urgent items.

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 18 January 2024.

PRESENT: Mr S C Manion (Chairman), Mr A Brady, Mr N J Collor, Mr A Kennedy, Mr J Meade, Mr A M Ridgers and Mr D Ross

IN ATTENDANCE: Ms A Agyepong (Assistant Director (Countywide) Adult Social Care and Health), Ms H Savage (Democratic Services Officer) and Dr C Brodie (Policy and Quality Assurance Officer)

UNRESTRICTED ITEMS

1. Apologies and Substitutes

(Item 1)

Apologies had been received from Mrs Cole and Mrs Parfitt-Reid.

2. Declarations of Interest by Members for items on the agenda

(Item 2)

There were no declarations of interest.

3. Minutes of the meeting held on 15 March 2023

(Item 3)

RESOLVED that the Minutes of the meeting held on 15 March 2023 are correctly recorded and that they be signed by the Chairman.

4. The Local Authority's Guardianship Register

(Item 4)

(1) The Assistant Director (Countywide) Adult Social Care and Health introduced the report on the work of the Guardianship Quality and Scrutiny Panel during the period January 2023 to December 2023 and the current Guardianship register.

(2) The Policy & Quality Assurance Officer said there were currently two people subject to Guardianship in Kent and the Guardianship Quality and Scrutiny Panel reviewed every year whether Guardianship was still required as the least restrictive option or if the individual should be discharged.

(3) The Assistant Director (Countywide) Adult Social Care and Health assured Members that robust scrutiny processes continued through work carried out by the Guardianship Quality and Scrutiny Panel.

RESOLVED that the content of the report be noted together with the current Guardianship Register at Appendix A of the report.

5. Other items which the Chairman decides are Urgent
(Item 5)

There were no urgent items.

Update on Planning Enforcement Issues

Item 6

Report by Head of Planning Applications Group to the Regulation Committee on 7th May 2024.

Summary: Update for Members on planning enforcement matters.

Recommendation: To endorse the actions taken or contemplated on respective cases.

Unrestricted

Introduction

1. This report provides an update into events, operational matters and activities of the County Planning Enforcement service, since the 30th January 2024 Regulation Committee.
2. KCC planning enforcement remains under both resourcing and operational pressures, with an increasing caseload and complexity, especially at the priority strategic end of the spectrum. Such cases rarely have a singular regulatory interest. The County Council therefore regularly works with allied bodies and the police to maximise the regulatory resources available in the public interest. Collaboration and sharing of knowledge and expertise is particularly important within the public sector, and effective in cost and enforcement terms.

Report Format

3. Our reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.
4. The first being this 'open' report, summarising in general, our findings and observations relating to enforcement matters, for discussion. In addition, it includes the nature of the alleged unauthorised activities and types of responses, incorporating as much as can be released on operational matters without prejudicing any action that the Council may wish to take, or in relation to team actions with other regulatory bodies. Data security in this field of work is vital, to all interested parties.
5. The second is the 'closed' or 'exempt' report (within Item 9 of these papers) containing restricted details on cases. These report the work conducted, in priority order, with the strategic level cases first (with a County Council interest / remit). These are followed by district referrals, including those where issues of jurisdiction remain, including 'cross-over' work with partner bodies and finally alleged compliance issues at permitted sites.
6. Analysis across and between sites, allows for patterns of alleged contravening

behaviour to be revealed. This in turn is discussed confidentially with Members, in order to safeguard both enforcement strategies and evidence. Member endorsement is sought on individual sites and in terms of group regulatory initiatives.

7. As a counter-balance to security restrictions, a list is provided, under paragraph 8 below, of the cases that are covered in the exempt report. This covers those sites currently active or requiring investigation. Those previously reported and inactive, remain on a 'holding / monitoring' database to be brought back to the Committee, should further activity occur, or as an update on site restoration and after-uses.
8. Our current and immediate operational workload, qualified by remit and with resource priority is as follows:

County Matter cases (complete, potential, forming a significant element or as a regulatory group contribution)

- 01 **Hoads Wood**, Bethersden, Ashford
- 02 **Swanton Lane**, Littlebourne, Canterbury
- 03 **Ancient Woodland Adjacent to Knoxfield Caravan Site**, Darenth Wood Road, Dartford
- 04 **Oaktree Farm**, Halstead, Sevenoaks
- 05 **Warden Point and Third Avenue**, Eastchurch, Isle of Sheppey
- 06 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne

District or EA referrals (or those district or EA cases of potential interest)

- 07 **Manor Farm, Willow Lane**, Paddock Wood
- 08 **Knowle Farm**, Malling Road, Teston, Maidstone
- 09 **Court Paddock Farm**, Ightham
- 10 **Former Travel Lodge / Brother Hood Woods**, Boughton Bypass Dunkirk
- 11 **The Pines Nursery**, Gravel Castle Road, Barham
- 12 **Pike Road / Thornton Kennels**, Tilmanstone

9. All alleged unauthorised cases received are triaged, researched and investigated to establish whether there is a statutory remit for the County Council. Some cases may ultimately revert to other authorities and agencies and there will be those which we may contribute to within multi-regulatory settings.
10. A further workload area relates to alleged compliance issues at permitted sites. These mainly relate to alleged breaches of planning conditions, arising from site management issues.

Permitted sites (compliance issues)

- 01 **Shelford Landfill, Broad Oak Road, Canterbury**
- 02 **Cube Metals**, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone.
- 03 **RS Skips**, Apex Business Park, Shorne.
- 04 **East Kent Recycling**, Oare Creek, Faversham
- 05 **Borough Green Sandpits**, Platt, Borough Green
- 06 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling
- 07 **H&H Celcon**, Ightham

Meeting Enforcement Objectives

Alleged strategic waste crime

11. There are now seven strategic planning enforcement cases spread across the county, requiring priority attention in a group regulatory context. Each site has attracted a dedicated task force, drawn from specialised staff with police involvement from all operational perspectives. Two sites, at Third Avenue, Eastchurch (Isle of Sheppey) and Hoads Wood, Bethersden, Ashford are subject to Environment Agency Restriction Orders, preventing alleged unauthorised access for the importation of waste materials and associated environmental damage and amenity impacts. Others are under consideration.

Other, largely small to medium size sites

12. There are a range of small to medium size sites, which to some degree are also responding well to group regulatory attention. The format may not always be appropriate but experience is showing that techniques at the strategic scale are in the main, translatable to these further categories of sites.

13. Collaborative efforts help to overcome the limitations of single authority actions and generally speaking, provide a quicker and more complete response from the public sector side. It is also suited towards combating alleged organised waste crime with the sharing of secure intelligence, including the apparent interconnection of sites across the county. Better control and management of workloads within each partner authority is further made possible by this approach.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

14. In addition to general visits to sites, we also undertake monitoring visits on permitted sites. They provide useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions. Those within the statutory monitoring charging scheme are currently restricted in favour of other work priorities, although investigation of alleged breaches that are drawn to the Council's attention have continued to be investigated. Alleged planning contraventions at permitted sites are currently being addressed with additional support from agency staff.

Resolved or mainly resolved cases requiring monitoring

15. Alongside the above monitoring regime there is a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to reoccur. Under normal circumstances, this accounts for a significant and long-established pattern of high frequency site monitoring. Cases are routinely reviewed to check for compliance and where necessary are reported back to the Committee. For the moment, this initiative has also been reduced to allow a diversion of resources to the priority strategic enforcement cases mentioned within this report but remains on a reactive basis.

Levelling up and Regeneration Act 2023

16. At the last Committee Meeting, an outline of provisions under the 'Levelling up and Regeneration Act' came into force on 26th October 2023. It includes a number of new provisions which impact upon planning enforcement, although further enabling legislation is required before the provisions come into force.

17. In summary the changes are:

- The power to issue Temporary Stop Notices (TSN) in respect of works to Listed Buildings – in force for up to 56 days;
- New Development Commencement Notices' and 'Completion Notices', and

- A number of revised enforcement of planning controls.
18. Members will be kept informed, as enabling procedures activate the various provisions, with more detail given on the relevant parts, in context, as they arise. Some activations are understood to be imminent and any necessary updates will be given at the committee meeting.

Conclusion

19. County planning enforcement is a demanding sphere of work both in content and through increasing complexity. There is a notable increase in strategic sites, on a landscape scale and associated with alleged organised waste crime. These sites and their small to medium counterparts, usually respond well to multi-regulatory attention, culminating in several at the larger end of the spectrum being halted. Seeking opportunities for direct action, within available resources, is becoming an option needing to be considered more often in the light of the challenge to authority, the environment and local amenity being contended with.

Recommendation

20. I RECOMMEND that MEMBERS NOTE & ENDORSE:

- (i) the actions taken or contemplated in this report and any legislative changes for planning enforcement arising from the Levelling Up and Regeneration Act 2023.

Case Officers: KCC Planning Enforcement
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Background Documents: see heading.

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By virtue of paragraph(s) 5, 6a, 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 9

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