



AGENDA

REGULATION COMMITTEE

Tuesday, 23rd May, 2006, at 2.00 pm
Medway Room, Sessions House, County
Hall, Maidstone

Ask for: **Andrew Tait**
Telephone **01622 694342**

Tea/Coffee will be available 15 minute before the start of the meeting.

UNRESTRICTED ITEMS

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

1. Substitutes
2. Minutes (Pages 1 - 8)
 - (a) Committee: 31 January 2006
 - (b) Member Panel: 21 February 2006
 - (c) Member Panel: 16 March 2006
3. Update on Planning Enforcement Issues (Pages 9 - 14)
4. Implementation of new powers to charge for the monitoring of mineral and landfill permissions (Pages 15 - 40)
5. Other Items which the Chairman decides are Urgent
6. Motion to exclude the Press and Public

That under Section 100A of the Local Government Act 1972 the public be excluded for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 12 and 13 of Part I of Schedule 12A of the Act.

7. Update on Planning Enforcement issues at Deal Field Shaw, Charing (Pages 41 - 46)
8. Update on Planning Enforcement issues at Larkey Wood, Chartham (Pages 47 - 48)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Monday, 15 May 2006

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

KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held at Sessions House, County Hall, Maidstone on Tuesday, 31 January 2006.

PRESENT: Mrs P A V Stockell (Chairman), Mr T J Birkett, Mr A H T Bowles, Mr C J Capon, Mr A D Crowther, Mr J A Davies, Mr J B O Fullarton, Mr T Gates, Mr C Hart, Mr I T N Jones, DL, Mr S J G Koowaree, Mr R L H Long, TD, Mr R A Pascoe, Mr C T Wells and Mr B P Wood.

IN ATTENDANCE: The Principal Case Officer, Public Rights of Way, Mr C Wade (with Ms M McNeir); the Assistant Democratic Services Manager, Mr G Rudd; the Operations Manager, Mr P Hardwick; the Principal Planning Officers, Mr R Gregory and Mrs S Thompson (with Mr A Goodison); and the Democratic Services Officer, Mr A Tait.

UNRESTRICTED ITEMS

1. Minutes

RESOLVED that the Minutes of the meetings of the Committee held on 27 September 2005 and 15 December 2005 and of the Member Panel (Town or Village Green) held on 22 September 2005 are correctly recorded and that they be signed by the Chairman.

2. **Application to extinguish part of Public Footpath ZU29 at Sittingbourne** *(Item 3 – Report by Divisional Director – Environment and Economy)*

RESOLVED that the report be received and that a Panel of Members be appointed to consider the application for the extinguishment of part of Public Footpath ZU29 at Sittingbourne under the new provisions.

3. **Home to School Transport Appeal Statistics** *(Item 4 – Report by Head of Democratic Services)*

RESOLVED that:-

- (a) the report be noted; and
- (b) the Chairman of the Select Committee on Home to School Transport be informed of the Committee's concern that it is reportedly not examining the Policy itself.

4. **Update on Planning Enforcement Issues** *(Item 5 – Report by Head of Planning Applications Group)*

(1) The Chairman agreed to write to the Area Director for Kent Unified Courts Administration requesting a response to the former Chairman's letter of August 2005 and subsequent reminders.

(2) RESOLVED:-

- (a) the actions taken or contemplated on the respective cases set out in paragraph 5-101 of the report be endorsed;
- (b) agreement be given to the Chairman's offer to write again to the Area Director for Kent Unified Courts Administration in respect of the delays that are occurring within the Kent Court system in dealing with breaches of planning control; and
- (c) the Officers involved in the work of the enforcement service be congratulated and thanked for their work.

5. Enforcement action involving Russell Surfacing Ltd on land adjacent to Detling Aerodrome Industrial Estate, Detling, Maidstone and Cooper's Waste Management on land at Detling Aerodrome Industrial Estate, Detling
(Item 6 – Report by Head of Planning Applications Group)

RESOLVED that :-

- (a) the three successes at appeal be noted together with the outcome of the recent public footpath prosecution as set out in paragraphs 1 and 13 of the report; and
- (b) approval be given (should it become necessary) to the prosecution and injunctions strategy outlined in paragraph 12 of the report in relation to the Russell Surfacing Ltd case and in paragraph 19 of the report in relation to the Cooper Waste Management case.

6. Village Green at Booth Field, Harrietsham (VG238) and application to register a village green at Sandyhurst Lane, Westwell, Ashford
(Item 7 – Urgent report by Divisional Director – Environment and Economy)

(1) The Chairman declared this item to be urgent on the grounds that decisions had recently been taken in the High Court which would require action to be taken before the next meeting of the Committee.

(2) The Principal Case Officer, Public Rights of Way tabled a report on the recent case in the High Court where the Judge had recommended that two areas of Booth Field, Harrietsham should be remitted to the Registration Authority for reconsideration. This had followed all party agreement that the cricket field should be removed from the Register of Town and Village Greens. He also reported orally on the decision of the High Court that the decision not to register a village green at Sandyhurst Lane, Westwell should be quashed.

(3) RESOLVED that-

- (a) the recent High Court judgements on these cases be noted;
- (b) if required, a non-statutory Public Inquiry be held into the remaining two sections of the land at Booth Field, Harrietsham to re-determine their status; and
- (c) the application to register a town or village green at Sandyhurst Lane, Westwell be determined, using a procedure to be decided by the Divisional Director – Environment and Economy in consultation with the Chairman following consultation with the parties concerned.

EXEMPT ITEMS
(Open Access to Minutes)

(Members resolved that under Section 100A of the Local Government Act 1972 the public be excluded from the meeting for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 12 and 13 of Part 1 of Schedule 12A of the Act)

7. Update on Planning Enforcement issues at Deal Field Shaw, Charing

(Item 9 – Report by Head of Planning Applications Group)

(Exempt under paragraphs 12 and 13)

- (1) The Principal Planning Officers reported on the latest enforcement position concerning the Shaw Grange former landfill site in Charing.
- (2) RESOLVED that:-
 - (a) approval be given to the Head of Planning Applications Group to attempt to minimise the cost to the County Council of the restoration works at the site and of the subsequent maintenance and management and related exposure to liability as outlined in paragraphs 11 to 13 of the report and
 - (b) authorisation to seek tenders for the required works be reaffirmed.

8. Update on Planning Enforcement issues at Larkey Wood, Chartham

(Item 10 – Report by Head of Planning Applications Group)

(Exempt under paragraphs 12 and 13)

- (1) The Principal Planning Officers reported on the latest enforcement position at Larkey Wood, Chartham.
- (2) RESOLVED that approval be given to:-
 - (a) the enforcement strategy outlined in paragraphs 6 to 9 of the report;
 - (b) the seeking of an extension of the current restoration order to 30 September 2006 in order to secure a return of the site to agriculture; and
 - (c) the provision of a screener on site (if sought by the defendant and his advisers) to accelerate the move towards restoration, within the stipulations outlined in paragraph 9 of the report.

9. Update on Planning Enforcement case at Detling Quarry, Detling

(Item 11 – Report by Head of Planning Applications Group)

(Exempt under paragraphs 12 and 13)

- (1) The Principal Planning Officer reported the latest enforcement position concerning Detling Quarry, Maidstone.
- (2) RESOLVED that approval be given to the updated enforcement strategy outlined in paragraph 9 of the report, not precluding the service of Breach of Condition Notices should they prove necessary.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held at Sessions House, County Hall, Maidstone on 16 March 2006.

PRESENT: Mrs P A V Stockell (Chairman), Mr A D Crowther, Mr D S Daly and Mr J A Davies.

OFFICERS: The Principal Case Officer – Public Rights of Way, Mr C Wade (with Miss M McNeir); the Employed Barrister, Ms M Hoque; and the Democratic Services Officer, Mr A Tait.

UNRESTRICTED ITEMS

2. Application to extinguish part of Public Footpath AW318 at Kingsnorth, Ashford

(Item 3 – Report by Divisional Director Environment and Economy)

- (1) A site visit to the public footpath took place prior to the meeting. It was attended by representatives of the Ramblers Association and local residents.
- (2) Late representations from Hallett & Co Solicitors were tabled. These consisted of comments on the Ramblers Association's objections on behalf of their clients, the applicants.
- (3) Mr S Godden of the Ramblers Association spoke in opposition to the proposed alternative footpath along Steeds Lane and Bond Lane.
- (4) Mr D S Daly moved, seconded by Mr A D Crowther that the recommendations set out in Paragraph 18 of the report be adopted.

Carried unanimously

- (5) RESOLVED that an Order be made under the provisions of Section 118 of the Highways Act 1980 to extinguish the part of Public Footpath AW318 at Kingsnorth shown in the Plan in Appendix A of the report, on the grounds that the path is not needed for public use.

3. Application to register land at Sandyhurst Lane, Ashford as a new village green

(Item 4 – Report by Divisional Director Environment and Economy)

- (1) A site visit to the land at Sandyhurst Lane took place before the meeting. It was attended by representatives from Boughton Aluph Parish Council, Sandyhurst Lane Residents Association and Ashford Borough Council.
- (2) The Principal Case Officer explained the circumstances which had resulted in the outcome of previous consideration of this application being quashed in the High Court.

(3) Mr R Honey from Boughton Aluph Parish Council and Mr H Leclerq, the applicant spoke in favour of the recommendation for a non-statutory public inquiry. Mr P Girling representing Ashford Borough Council (the landowners) spoke in opposition to the application.

(4) Mr J A Davies moved, seconded by Mr A D Crowther that the recommendations set out in Paragraph 7 of the report be adopted.

Carried unanimously

(5) RESOLVED that the advice from Counsel be endorsed and that a non-statutory Public Inquiry be held into the case to clarify the issues.

06/aa/regcmte-regpanel/031606/minutes

KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held at Sessions House, County Hall, Maidstone on 21 February 2006.

PRESENT: Mrs P A V Stockell (Chairman), Mr F Wood-Brignall (Vice-Chairman), Mr T Gates, Mr S J G Koowaree and Mr B P Wood.

OFFICERS: The Principal Case Officer – Public Rights of Way, Mr C Wade (with Miss M McNeir); and the Democratic Services Officer, Mr A Tait.

UNRESTRICTED ITEMS

1. Application to extinguish part of Public Footpath ZU29 at Sittingbourne
(Item 3 – Report by Divisional Director Environment and Economy)

(1) A site visit to the public footpath took place prior to the meeting. It was attended by representatives of Fulston Manor School and Highsted Grammar School (the applicants); the Ramblers Association and Mr R Platten, a local objector.

(2) The Principal Case Officer tabled late representations from Mr R Platten. This consisted of data provided by Kent Police relating to incidents at both schools that had taken place when the path had been open from March to August in 2004, and to incidents from March to August 2005 when the path had been temporarily closed. This data purported to show that the greater number of incidents had taken place when the path had been closed.

(3) The Principal Case Officer introduced his report and commented on the data provided by Mr Platten. He said that a large number of the reported incidents had taken place at times when there were no children or staff on the premises and referred to damage to property rather than to harassment of pupils and staff. Section 118B of the Highways Act 1980, however, related purely to the protection of pupils and staff. In addition, a number of the reported incidents were irrelevant to the matter in hand.

(4) Mr A Brookes, Head Teacher of Fulston Manor School addressed the Panel in support of the application. He asked for the applicants' appreciation of the work undertaken by Miss McNeir to be recorded.

(5) Members of the Panel commented on the need for the part of the footpath leading from Highsted Road that was not part of the application to be closed speedily in order to prevent it becoming a black spot for anti-social activities.

(6) Mr F Wood-Brignall moved, seconded by Mr T Gates that the recommendations set out in Paragraph 31 of the report be adopted.

Carried unanimously

- (7) RESOLVED that an Order be made under the provisions of Section 118B of the Highways Act 1980 to extinguish the part of Public Footpath ZU29 at Sittingbourne shown in the Plan in Appendix A of the report, on the grounds that it is expedient that the section of footpath concerned should be stopped up in order to protect pupils or staff from violence, harassment, alarm or distress arising from unlawful activity, and from any other risk to their health or safety arising from such activity.

06/aa/regcmtte-regtprow/022106/minutes

Item 4**Implementation of new powers to charge for the monitoring of mineral and landfill permissions**

Report by Head of Planning Applications Group to the Regulation Committee on 23rd May 2006

Summary: Implementation of new powers to charge for the monitoring of mineral and landfill permissions. Work and resources required to introduce charging for our formal monitoring of mineral and landfill permissions in Kent

Recommendation: Note the introduction of Regulations that allow us to charge for monitoring at minerals and landfill permissions at a prescribed fee and support flexible phased implementation of an excellent level of service representing good practice monitoring.

Local Member: n/a

Unrestricted

Background

1. On 6 April 2006, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2006 (the Regulations) came into force. These Regulations give mineral and waste planning authorities (mwpas) the powers to charge for the monitoring of mineral and landfill waste permissions. At the same time, the ODPM issued a guide to implementation and good practice.
2. The introduction of the new regime reflects the on-going process of development and complexity associated with mineral and landfill permissions and the objective to ensure that mineral and landfill permissions are monitored in accordance with good practice. Granting powers that allow us to charge for monitoring is an acknowledgement of the resource and cost implications of delivering 'good practice'.

The new regime

3. The Regulations enable us to charge the main operator of an active mining or landfill site for up to 8 visits in a 12 month period, from the date of the first site visit, at £288 per visit. At inactive sites the charge is £96 for no more than 1 visit in a 12 month period. A fee can only be charged after a visit has been completed.
4. The ODPM guidance describes their rationale for monitoring visits as authorities and operators working together to constructively review compliance with permissions in the light of the stage of development reached and possible changing operational circumstances and needs. In this way it is thought that problems can be avoided and formal enforcement action is less likely to be necessary. Our powers of entry to carry out such monitoring are already provided within the Town and Country Planning Act 1990 (as amended).

Implementation of new powers to charge for the monitoring of mineral and landfill permissions

5. We intend to use a site categorisation process in order to propose and then agree annual visit frequencies with the main operator of a site. However, there may be occasions where we are unable to agree a visit frequency with the site operator. In these circumstances, we intend to impose a monitoring frequency, in accordance with the site categorisation process, as, ultimately, it is mwpas that should set the monitoring frequency. Monitoring within these frequencies can be carried out under our powers of entry and once a site visit has been made, a fee becomes payable. If an operator disagrees with the number of visits imposed and carried out, they will need to follow the Kent County Council's complaint procedure. Ultimately, if they are unhappy with the outcome, they may ask the local government ombudsman to investigate. We intend to follow Kent County Council established procedures for taking action against those who default on fees that have been requested and which are due.
6. It is expected that mwpas will employ fully trained and qualified planning staff in sufficient numbers to carry out the monitoring in accordance with good practice principles and it is recognised that some authorities will need to develop appropriately resourced monitoring teams to achieve a good practice level of monitoring.
7. Expectation is that a monitoring visit to a site will involve preparation work, travel, the visit, completion of a visit form at the site, a formal monitoring report and an annual report to the site operator.

Work completed to date

8. In preparation for the new regime, we employed Adams Hendry Consulting Ltd to assess the requirements of the proposed scheme. We asked them to identify 3 service categories, in order to define a range of monitoring frequencies and activities; assess the skills mix and relevant competencies required based on the sites in Kent; estimate the man hours that would be needed and to provide a system for determination of an appropriate annual visit frequency. We also asked them to assess our existing systems and identify improvements that would be needed and to offer options for phased implementation of the system. This work has recently been completed.
9. From the initial categorisation of sites, we have 99 sites that fall within the regime. This represents over 1/3rd of the sites that we have in Kent. A process for site categorisation has been produced and all of these sites have been given an initial categorisation. Three service categories have been defined (excellent, above average and average) and indicative visit frequencies and durations have been provided against each of 5 categories of site. The skill requirements for monitoring staff have also been provided against each of the 5 categories of site and variations have been produced according to the 3 service categories. Details of the 5 categories of site and monitoring frequencies at excellent, above average and average service level are included in Appendix 1 attached.

Implementation of new powers to charge for the monitoring of mineral and landfill permissions

Implementation

10. The Regulations and guidance do not make provision for phased implementation of charging for monitoring visits. Thus we need to consider how and when we will implement the scheme.
11. Table 1 below shows the maximum number of visits that would be required in a 12 month period and the potential revenue that we might receive from such visits. It also shows the time and *additional* resources (FTE) which we would require in order to undertake the visits when we implement the new system, as determined by the Adams Hendry work.

Table 1 – Additional requirements to introduce a system

Service category	Total visits required - 12 month period	Potential revenue from visits undertaken (£)	Time required for visit freq (days)	Additional FTE required to current staffing to implement chargeable monitoring (227 days/FTE)
Excellent	Max 274	73536	510	2.25
Above Average	199	51936	286.7	1.3
Average	156	39552	155.14	0.7

12. It is important to note that we cannot charge for our monitoring at all sites in Kent. We can only charge for monitoring at mineral and landfill sites. Our monitoring of other activities such as at waste transfer stations, metal recycling sites, and composting sites will fall outside of this regime. If we divert existing monitoring resources to mineral and landfill sites it will impact on our ability to monitor at other sites.
13. The excellent level of service defined by the Adams Hendry work sets out features of a monitoring system that could deliver good practice. The recommendation from their work being that we phase the introduction of the regime, taking the next year to develop the necessary systems and expertise to deliver at least an average service with a view to achieving an excellent service in the medium term (2 – 3 yrs). It should be noted that the costs of delivering an excellent (representing good practice) or above average service would be greater than the potential revenue from charging for these visits. It is also possible that sites may be further re-categorised after the initial visit or that we have difficulty collecting fees due after monitoring. It would appear that the costs of monitoring are higher than ODPM have allowed for in setting the fee regime.

Implementation of new powers to charge for the monitoring of mineral and landfill permissions

14. It is recognised that additional preparation time will be required for the first visit at each site in order to implement the system. The work undertaken suggests that in the first year of operation, we carry out 156 visits at an increased average time per visit. In order to do this, we will need additional resources to those that we currently have in place. We will need an additional 0.7 FTE to deliver monitoring within an average service category.
15. However, we feel that there may be difficulties if we implement monitoring frequencies at an average level and then increase frequencies to an excellent level over time. Operators may find it difficult to accept the need for an increased frequency of visits after the scheme has been introduced to them. It is my opinion that it would be more appropriate to agree monitoring frequencies at an excellent level from the outset, although resources may initially dictate that a lower level of visits may be adopted in the early stages. Monitoring to an excellent service would require additional resources to those that we currently have in place. We will need an additional 2.25 FTE to deliver monitoring within an excellent service category. It is likely that the monitoring carried out will generate further case work in terms of securing full compliance, for case officers within the group, although this impact is difficult to quantify at this stage. The view of members is requested on this issue.

Work that will be required to implement

16. In order to charge formally, we will need to introduce the system to relevant site operators. We will also need to agree site visit frequencies for each site with the operator and thus in order to do this we need to adopt the service category monitoring frequencies.
17. The ODPM guidance suggests that we should prepare our own guidance explaining how we will administer the scheme and approach site monitoring. The Adams Hendry work suggests that this would represent an excellent service category and that it would assist in the delivery of a clear and transparent service. They suggest that as this will take time, we issue interim guidance briefly setting out the process and the procedures for invoicing, fee recovery and disputes.
18. Improvements to our databases and systems will also be required, in order to be more efficient and effective.
19. We will need to recruit sufficient additional appropriately skilled staff.

Implementation of new powers to charge for the monitoring of mineral and landfill permissions**Conclusion**

20. We need to be realistic about the level of monitoring that can be delivered given that we do not currently have additional resources in place to do this work. I would also advise that we are experiencing considerable difficulty in recruiting experienced planners with appropriate minerals and waste experience. However, it is proposed that we adopt an excellent service, from the outset. In so doing we will need to divert resources from routine compliance monitoring at other types of permitted sites; issue interim guidance to operators and agree initial visit frequencies within the site categorisation process with operators, taking account of the available resources. It is intended that this work should be undertaken over the next four months. There will be insufficient resources to complete an initial visit to all sites to finalise the visit frequency within this timescale. With phased implementation, initial visits could be completed to sites in categories 3 – 5 within this timescale and the remainder completed between October and March 2007. During such time we will trial interim guidance before issuing finalised guidance in 07/08. In my opinion, and supported by the Adams Hendry work, we would not be able to complete subsequent visits to monitor at excellent service without additional resources within the year.
21. We will need to be flexible with implementation in order to allow variation to the phasing of monitoring visits, according to resource availability. We will need to consider whether there are other more appropriate options for phased implementation, as we develop the system in Kent. For example, it may be preferable to deliver monitoring at a reduced number of sites and carry out more visits per site (within the frequencies agreed with the site operator). Our options will need to be kept open as we develop our interim guidance for operators and agree site category and visit frequencies. The view of members is also requested on this issue.

Recommendation

22. I RECOMMEND that MEMBERS:

- 1) Note the introduction of Regulations that allow us to charge for monitoring at minerals and landfill permissions at a prescribed fee.
- 2) Support the introduction of an excellent level of service, which delivers monitoring to good practice using appropriate resources, as set out in paragraph 15 above.
- 3) Support development of the scheme and the introduction of the scheme to operators by setting out our own interim guidance, and agreeing initial visit frequencies with operators in accordance with the provisional programme set out in paragraph 20 and 21 above.

Case Officer: H Mallett
Background Documents: see heading

01622 221064

S:DOCS/COMM/012004PEI

Implementation of new powers to charge for the monitoring of mineral and landfill permissions

Appendix 1

Site categories and monitoring frequencies at excellent, above average and average service category

Site category & description of activities	Indicative initial monitoring frequency for sites falling within the service category, for which a fee may be charged in a 12 month period		
	Average	Above Average	Excellent
Category 1 - inactive because it has ceased operating, temporarily or otherwise and no restoration or aftercare is being undertaken to any substantial extent. Subject to a minimum monitoring frequency.	1	1	1
Category 2 – active sites subject to routine restoration and aftercare; small scale / minor operations with limited monitoring requirements; seasonal / sporadic operations with limited monitoring requirements. Subject to a below average monitoring frequency.	1	1	2
Category 3 – active sites in the early stages restoration; complex restoration within a sensitive location; sites considered to be compliant with planning permission and legal obligations and which do not warrant more than an average monitoring frequency. Subject to an average monitoring frequency.	2	3	3 or 4
Category 4 – active sites in the initial stages of development; planned activities in the next 12 months warrant closer monitoring; sites with satellite operations; several complex planning permissions / legal agreements; a range of activities being carried out on the site, which would warrant separate specialist monitoring; variations of conditions or amendments to working methods that require monitoring. Subject to above average monitoring frequency.	2	4	Between 4 & 6
Category 5a – active sites which are not operating in accordance with planning permission / legal agreement and where formal enforcement action has not yet commenced. Sites where there have been substantiated complaints. Subject to a maximum monitoring frequency.	3	5	Between 6 & 8
Category 5b – active sites which are not operating in accordance with planning / legal agreement and where formal action has commenced and is in progress, including follow up actions as a result of formal enforcement. Subject to a maximum monitoring frequency, which will be influenced by the requirements of the enforcement activity.	Between 0 - 8	Between 0 - 8	Between 0 - 8

Update on Planning Enforcement Issues

Report by Head of Planning Applications Group to the Regulation Committee on 23rd May 2006

Summary: Update for Members on planning enforcement matters.

Recommendation: To endorse the actions taken or contemplated on respective cases and to seek agreement how to pursue this Committee's concern regarding the Court procedures.

Local Member: n/a

Unrestricted

Introduction

1. This report provides an update on enforcement and monitoring work carried out by the Planning Applications Group since the January 2006 Regulation Committee. The report is divided into 3 main sections – those cases
 - where formal enforcement action has been taken;
 - which are currently under-investigation; and
 - that have been resolved since the last meeting

The report also gives details of site monitoring, an update on this Committee's concern regarding court procedures and details of DeFRA's consultation on England's Waste Strategy (waste crime elements).

2. Since the January meeting of the Regulation Committee, resources have been focussed on 9 sites where formal enforcement action has been taken, 20 cases where investigations are underway and a further 19 cases which have been satisfactorily resolved. In addition, monitoring visits on permitted sites have been undertaken on 28 sites. Work has also been undertaken to prepare for the introduction of a statutory monitoring scheme for selected mineral and waste development. Further detail of this is set out in Item 4 of these papers.
3. Enforcement casework is considerably complex requiring sound legal solutions. The procedures involved are cumbersome and slow and there is often a need to manage unrealistic expectations by third parties as to what can be delivered by the planning service and the timescales involved. In delivering this part of the planning service enforcement resources are targeted. Decisions are made in accordance with the Enforcement Protocol that seeks to ensure that those activities that have the potential to create the greatest environmental damage are investigated as a priority. Each case has to be considered on its own merits and in the context that enforcement action is a discretionary function. Action should only be taken as a last resort. However, at the same time if action is required, all available powers should be used to their fullest extent, that includes encouraging other regulators (i.e. Environment Agency and Borough Councils) to use their powers in combination with ours.
4. Since January, good progress has been made on a number of complex enforcement cases and we continue to resolve cases without the need for formal action where this is practicable. Once formal action has been instigated the timescales and commitments involved are set by other parties ie the Planning Inspectorate or the Court Administrators. As a result of this it has been necessary to concentrate resources on

Update on Planning Enforcement Issues

key cases where formal action has been taken and this has been at the expense of other enforcement work. Restoration of sites will often also have to take second place to control and management of active contraventions. We continue to instruct Counsel at an early stage on key cases to help shape our enforcement strategies.

5. On a pro-active front we have established new procedures with the Environment Agency (EA) to inform the Planning Authority where exemptions to Waste Licensing Regulations are being sought from the EA. Waste sites that are exempt from the Waste Licensing Regulations still require planning permission. Experience has shown that these 'exemption' sites can often result in breaches of planning legislation leading to the need for enforcement action. Indeed, 'exemption' status is a common denominator in the majority of our enforcement workload, particularly the more serious cases. These new arrangements should assist in identifying potential breaches prior to development taking place.
6. We have also commented on DeFRA's consultation on the Review of England's Waste Strategy 2006 and in particular what additional action is needed to achieve effective enforcement or to prevent waste crime. Further details are set out in para. 134

Update on Enforcement Activities

Cases Where Formal Action has been Taken

Deal Field Shaw, Charing (AS/03/comp/0090)

7. This former landfill site is also the subject of an exempt report to these papers (Item 7).

Larkey Wood, Chartham (CA/03/comp/0089)

8. This site within a Special Landscape Area is the subject of an exempt report to these papers (Item 8).

Detling Quarry (MA/03/comp/0034)

9. This is an active chalk quarry, which lies within an Area of Outstanding Natural Beauty. There have been a number of operational irregularities over the past 3-4 years. These have absorbed a great deal of officers' time. A number of attempts have been made to informally resolve such problems, which of themselves need to be kept in the perspective of minor infringements on site. Nevertheless, non-quarry related breaches have persisted, particularly connected with the site occupier. As a last resort court action has been followed in an attempt to secure the removal of articles, debris, buildings and vehicles which remain on site in breach of a confirmed Enforcement Notice. The need for any further litigation under existing authorisation from Members is under regular review with the County Solicitor.
10. The site occupier having been refused planning permission by Maidstone Borough Council for an independent residential and business use within the quarry has appealed the decision. He is attempting in this way to regularise both uses. A 'deemed' application appeal is to be heard on 23 and 24th May 2006. Maidstone Borough Council will be defending their decision but the County Council will be assisting the Inquiry by presenting background evidence such as the full planning history of the quarry. Bearing in mind that the first day of the Inquiry coincides with the Committee, I should be in a position to give the very latest position on the case to Members.

Update on Planning Enforcement Issues

Russell Surfacing, Detling Aerodrome Estate, Maidstone (MA/04/comp/0006)

11. This case relates to a significant breach of planning control involving the unauthorised depositing of waste as an un-engineered and apparent precursor to the development of an aggregate recycling facility. The County Council successfully defended an appeal against an enforcement notice and against the Council's refusal of planning permission. The Council were also successful in prosecuting against the obstruction of a public footpath that crosses the site.
12. The confirmed Notice set out a number of requirements relating to the cessation of activities and various timescales for compliance. These were:
- All importation of waste materials to cease and use of service equipment and containers within 1 day (ie 11/11/05)
 - The removal of all stockpiled materials including the material blocking the public footpath within 2 months (ie by 10/01/06)
 - Removal of the deposited waste, storage bays, weighbridge, power unit and site accommodation units and cultivation to a tilth within 4 months (ie 10/03/06)
 - Seeding to a Downland grass mix by 10/05/06.
13. A site visit in February confirmed that save for the grass seeding requirements, the terms of the Notice had been met. I intend to check compliance for this outstanding matter after the 10th May 2006 and will advise the Committee of my findings at the Meeting.

Coopers Waste Management (Speedy Gone Garbage), Detling Aerodrome Industrial Estate, Detling (MA/04/comp/5)

14. This case concerns the breach of an existing and permitted (MA/95/989) waste transfer station and an unauthorised extension into the adjoining Unit. A prosecution was secured in June 2004 against the breach of a Breach of Condition Notice. The Environment Agency took complementary actions. However, the operating company responsible for the breaches was placed into receivership in September 2004, averting a second prosecution. An Enforcement Notice was therefore served in November 2004, to give the necessary controls to secure compliance. This was appealed and eventually upheld on 8 December 2005.
15. It was resolved at the January Meeting to prosecute the operator and landowner should the site not be cleared by the Notice deadline of 8 February 2006. I am pleased to report that although overdue, the contravening use has now ceased and the operator is in the process of vacating the site. Most of the vehicles, plant & machinery and waste stockpiles have been removed. I am confident that the landowner, realising his direct responsibility in the matter will shortly secure final compliance with the Enforcement Notice. Should that not be achieved by the time of the Meeting I shall be seeking Members further support for appropriate litigation.

Brasted Sandpits, Sevenoaks (SE/03/comp/25 + comp/0007)

16. This case concerns a former sand extraction site within an Area of Outstanding Natural Beauty (AONB), the Metropolitan Green Belt and a Special Landscape Area (SLA). The site operated for many years as a joint mineral extraction and inert waste landfill site. Permission for extraction expired at the end of 2002. Waste material for the landfill was

Update on Planning Enforcement Issues

derived in part from a temporary Waste Transfer Operation, the planning permission for which expired in December 2004.

17. In summary, the principal ongoing breaches of planning control at the site relate to:
- phasing of the infilling not in accordance with the permitted scheme;
 - tipping of waste material above permitted heights;
 - restoration not in accordance with the permitted scheme; and
 - failure to erect tree protection fencing.
18. By way of background, the operator company and directors of Brasted Sand Pit were successfully prosecuted in March 2004 for non-compliance with a Breach of Condition Notice and an Enforcement Notice. These Notices related to the above breaches plus other matters including an oversized waste transfer function and unauthorised plant, buildings and machinery. Following the outcome in court, the operator agreed to comply with certain timescales contained within a draft injunction for infilling and restoration of the site. It became apparent from site visits during the summer and early autumn of 2004 that such timescales would not be met. Although in September the operator employed an external contractor to assist with the re-profiling of tipped waste to achieve approved levels, there would still have been considerable work required to complete the required works agreed. The County Solicitor wrote to the operator to the effect that they were now exposed to further legal action from the County Council.
19. A further issue arose in autumn 2004 that had significant implications for further legal action. This related to the Environment Agency (EA) investigating an alleged breach of the Waste Management License. Following excavations at the site, which uncovered quantities of unauthorised material within operational phase 6 of the backfill, the Agency served a Compliance Notice requiring the operator to address the situation. This could potentially involve removing large quantities of waste material off site. Verification of the waste content of phases 3, 4 and 5 was also required by the EA. Such actions complicate the operator's ability to meet the County Council's own requirements for re-profiling and restoration of the whole site which was nearing completion.
20. In January 2005 the responsible parties were therefore pressed for the restoration of phases 1,2 and 7, which are unaffected by the EA's actions. The operator's agent gave assurances that these phases would be fully restored by the end of June 2005. A site visit on 25 May 2005 showed that considerable progress had been made. Phase 7, which once housed the waste transfer station, had been completely filled with inert waste with the exception of a haul road through the phase.
21. However, a further site visit on 20 July 2005 showed that operations on site had ceased altogether. The site was unmanned and the main gate was locked. Some topsoil had been spread across the majority of phase 1, but parts of the newly tipped areas were left above approved restoration contours. Despite the County Council's further requirement for phases 1,2 and 7 to be topsoiled in accordance with approved restoration contours, the site continued to be inactive during the summer.
22. The position of the EA is pivotal to a successful restoration outcome. It is material to the form and timing of my own proposed actions. I have pressed them for a decision on the outstanding phases but the position is complicated by the lack of conclusive monitoring data on the range of deposited materials and the potential groundwater and related

Update on Planning Enforcement Issues

impacts from any wrongful tipping. A potential way forward would be for the landowners to restore the site at their own risk. That would be in the knowledge that should subsequent monitoring point to the need for pockets of waste (or even whole phases of tipping) to be removed, parts of the site would need to be reworked and restored.

23. The EA have separately served a 'Closure Notice' on the operator, under the Landfill Regulations. That requires the company to produce a Closure Plan and report, which in turn needs to include the outstanding detail on waste inputs, groundwater monitoring and remediation measures. The County Council will be consulted on any submission and can assess at that point the enforcement position on site levels and final restoration.
24. Meanwhile, the Waste Management Licence remains in operation. Indeed, on 27 April 2006 the EA (with witness support from my Group) secured a conviction at Sevenoaks Magistrates Court. The company was fined £8,000 for two charges and ordered to pay costs of £1,500 to the EA. The operator was summonsed on 4 counts and has elected for trial by jury. An initial hearing is scheduled for 22 June 2006 at Maidstone Crown Court. My Technical Adviser is ready to give evidence on behalf of the EA if called upon.
25. My intention is to inspect the site before the Meeting in preparation for the court hearing and to be in a position to update Members on any restoration or other material changes that may have occurred. The EA action will need to run its course. However, the County Council retains an option at the appropriate stage of pursuing restoration of areas 1, 2 and 7 in a subsequent court action under planning legislation.

Raspberry Hill, Park Farm, Iwade (SW/04/comp/49)

26. This case concerns the importation, deposit and burning of waste material on a site in the open countryside and impinging on nearby orchards. There is also an unauthorised mobile home and an operating base which until recently was being used for the circulation and parking of large goods vehicles, as part of an apparent commercial distribution use. Discussions have previously taken place with Swale Borough Council regarding the submission of a planning application for residential and business use. That failed to materialise. Nevertheless, a range of District planning and enforcement matters have remained, alongside the alleged waste related breaches. I have therefore been jointly handling the case with the Borough Council.
27. The Borough Council has served two Enforcement Notices to cover the residential and business elements, which have both been appealed. A public inquiry had been scheduled for 7 March 2006. I had submitted a supporting statement and offered to attend the hearing to further assist the Borough. The Notices however, were overtaken by events. The area of the commercial breaches became extended beyond the original enforcement boundaries, through the expansive depositing of waste. This prompted a need for the County Council to serve an all embracing Enforcement Notice (extending over the full footprint of the series of contraventions and including all of the breaches). It requires a return to agriculture and has been drafted to be read alongside the Borough Notices.
28. The County Notice has also been appealed, prompting the arranged hearing to be cancelled by the Planning Inspectorate in favour of a new co-joined public inquiry. A revised date has yet to be confirmed. That will hear all 3 appeals together in their full planning context. I have agreed joint Counsel with Swale Borough Council and both Authorities will present a consolidated case. That should ensure the most cost-effective

Update on Planning Enforcement Issues

and robust defence of the various Enforcement Notices.

29. Whilst awaiting a date for the combined appeals to be heard and their subsequent outcomes, the land will need to be protected from any resumption of the breach experienced when the waste depositing and apparent commercial distribution and related uses were at their peak. As a contingency therefore, I would request Members continuing support for the seeking of a County or High Court Injunction, should it become necessary, in order to underpin the County Council's own Enforcement Notice. Should this approach become necessary I would look to the Borough Council and potentially the Environment Agency to take an active evidential part in any proceedings.

Lydd Skips, Lydd Commercial Park (SH/03/comp/0063)

30. I have previously advised Members of a series of planning breaches at this site and the delay in addressing this case via the judiciary process. The planning breaches included waste transfer, minor incineration and the depositing of imported skip waste on the site in the form of a continuous mound along the road perimeter boundary, allied with some internal land raising. To protect the land and achieve restoration, an Enforcement Notice was served in 2004. This was not appealed and is now confirmed. The Notice required the cessation of all breaches on site and the removal of all tipped and stockpiled waste by 27th December 2004. All caravans, plant and machinery and temporary site accommodation and office units were also to be removed from the site.
31. Following the service of the Enforcement Notice, waste activities were quickly stopped, however, slow progress was being made towards compliance. Members support was therefore given to the seeking of a prosecution and an injunction should the need have arisen. As of the end of 2004 full compliance with the Enforcement Notice had not been met and court action was therefore instituted with an initial hearing on 31st January 2005. Following further procedural hearings, a trial date was set for 15th July 2005. This was adjourned to 13th September 2005 because the defendant was unprepared and unrepresented. The County Solicitor attended a subsequent pre-trial meeting where the defendant was granted legal aid. The case was adjourned to 3rd February 2006 and a further pre-trial meeting took place on 21 December 2005. The case was again adjourned in favour of an urgent custody case and a new date has been set for the 10th July 2006. A further pre-trial review will also need to be scheduled in.
32. In the interim, the site has been sold and the new landowner seriously set about complying with the terms of the Enforcement Notice removing the deposited waste. A site visit in 2005 confirmed that there was no waste processing on site and that the site had been redeveloped as a base for mobile homes.

Hoath Wood, Lavenders Road, West Malling (TM/03/comp/7)

33. This case relates to multiple contraventions including: the deposit of imported waste materials, uncontrolled land raising, stone-crushing; waste transfer; waste burning; vehicle breaking, scrap metal handling & salvage; stationing of caravans; portable site accommodation buildings; skips; containers; plant & equipment; parking of large and private light goods vehicles and their associated haulage uses and the storage of waste, vehicle parts and scrapped vehicles. The site is the subject of a confirmed Enforcement Notice following a public inquiry.
34. Following confirmation of the Notice, a number of sequential compliance dates were agreed. The first required all waste imports to cease which apart from sporadic tyre

Update on Planning Enforcement Issues

burning and isolated fly tipped loads has been achieved. Overall restoration including re-planting was required by 31st March 2005.

35. A multi-agency site inspection was conducted in July 2005 to check the level of compliance. This revealed that further restoration had been carried out. All the portable accommodation buildings had been removed, along with other miscellaneous items. There was no further evidence of waste disposal and processing, apart from areas of scorched earth left from the tyre burning. That in turn is subject to separate action by the Borough Environmental Health Officer and the Environment Agency under the Clean Air Act 1993.
36. I advised the January meeting that given the progress towards site clearance and the cessation of tipping, the outstanding works in terms of levelling, final reinstatement and re-planting could reasonably be achieved by negotiation. Members accepted this advice, reserving the possibility of pursuing further formal action including the use of a High Court Injunction should events on site indicate that this is necessary. No further tipping has taken place and I have not received any further complaints concerning this site. I therefore intend to continue to resolve the outstanding matters via negotiation.

Live Cases – Enforcement Response Under Consideration**Ripley's Scrapyard, Tennyson Road, Ashford**

37. I have previously advised that a building to meet the requirements of the End of Life Vehicle Regulations had been erected on the site without the necessary planning permission. In accordance with the Enforcement Protocol the operator was invited to submit a retrospective planning application. No application has been received and at the January 2006 Committee, Members resolved to pursue formal enforcement action to address this case. Unfortunately other enforcement priorities have prevented this case being pursued. No complaints have been received about the development.

Naccolt Brickworks, Wye (AS/04/comp/0013)

38. This case concerns a site that has the benefit of a temporary planning consent until the end of 2006 for a local neighbourhood recycling centre. I have reported a number of breaches of planning control at the site along with a number of breaches of other legislation to previous committees. I should stress however that in the context of the Planning Enforcement Protocol these on-site managerial problems represent a low priority in relation to other more serious cases, including large scale and potentially irreversible landscape damage. Furthermore I am not receiving complaints from local residents concerning the operation and the EA have also recently prosecuted the operator for site management irregularities.
39. The operator has been advised through his Planning Aid consultant that should he wish to continue to trade from the site in 2007 he will require the benefit of a new planning permission. In considering any such proposal, I will need to be satisfied that measures are in place to address the current breaches. My consideration will also have regard to policy W16 of the Kent Waste Local Plan, which considers the industry's past record in respect of the environmental management of comparable operations. In light of the view that the planning permission expires in 6 months, the breaches are very minor site

Update on Planning Enforcement Issues

management issues and that I have received no recent complaints concerning the development, I do not propose to pursue formal enforcement action at this time. Should the development continue in 2007 without a revised permission, then this decision will need to be reviewed.

Kemberland Wood, Fox Hill, Sturry

40. I have previously advised Members of unauthorised waste activities at this woodland location. These operations have included the importation of waste materials and the screening and shredding of material on site, making use of an existing yard. Investigations established that the work was being undertaken with the benefit of exemptions from Waste Management Licensing by the Environment Agency (EA). The affected land was already protected by 2 Enforcement Notices as served by the City Council. Indeed, the occupiers had complied with the Notices by clearing buildings, scrap vehicles and scrap metals, under the supervision of these two authorities.
41. Their apparent intention is to restore the land to a 'nature reserve' or similar recreational use, financing the work from the screening of waste on site together with the importation of waste materials to provide suitable top soil dressing and a resource to sell on. The imported volume of builder's rubble on site was intended to be used as hardcore for internal roads to the reserve. No planning permission exists for such uses, though the landowner/ operator's planning consultant is now advising on the planning future of the landholding. As part of that exercise he is investigating the extent of a Lawful Use Certificate on a related hardstanding for a '*concreting and skip business*' granted by the City Council in August 2004.
42. Members may recall that I advised the operator that no further waste material could be brought on site and that all unauthorised waste imports and screening plant needed to be removed from the site and the site graded back to its natural contour lines and away from the perimeter tree line by 31st October 2005. Members supported this stance and authorised the serving of an Enforcement Notice in the event of any further importation of waste material or waste management development. Nevertheless, the required works are close to being completed through informal negotiation. The main item that remains is a large stockpile of hardcore, which the operator has agreed to remove by the Spring. I shall monitor its removal to a conclusion.
43. Given the halt to activities and the impact on his waste management ambitions for the site, the landowner/operator has pressed for a re-statement of the County Council's planning and enforcement position. In summary, the position is unchanged and I have stated this to him on site in the presence of his City Councillor, adjoining County Councillor and his MP. I reiterated that waste activities could not proceed without planning permission. I also stated that the work to reach compliance with the previous Enforcement Notices was laudable and acknowledged. However, the City Council had confirmed completion of the necessary works, so that argument could no longer be used to support the importation of waste materials onto the land. Any land project would need permission from the City Council, though discussions might still need to take place with this Authority over jurisdiction according to the presence of any proposed and material levels of waste inputs.
44. The planning status of the yard is a separate matter to the negotiated settlement of the rest of the land holding. The current Lawful Use pertaining to a concerning and skip business is controlled by the City Council. However the operator through his planning

Update on Planning Enforcement Issues

consultant has applied to the County Council (having been re-directed by the City Council) to apply for lawful status for certain alleged elements of waste management on site. The application incorporates the existing lawful uses into an extended description to include *“the sorting, separation and re-use of inert and semi-inert waste materials, with associated storage, plant, machinery and parking.”* This is intended to include screening and crushing operations.

45. The application is being processed under advice from Counsel. The case has to be considered wholly and exclusively on the facts of the matter and the decision falls within the remit of the Planning Applications Committee. I anticipate reporting the application to the 20 June 2006 Meeting of that Committee. Should that result in a complete or even part refusal, I should appreciate Members' support on a contingency basis for the service of an Enforcement Notice and / or interim injunction should any unauthorised uses develop on the site. I should inform Members that the operator has been co-operating on this aspect. Nevertheless, as in all similar cases, I have to be in a position between Committee Meetings to respond to any anticipate or potential enforcement scenario. I also have to provide site and amenity protection for the period up to any decision on a refusal at appeal. That in turn is taking 12 to 18 months at the moment.

Community College, Whitstable

46. I advised previous meetings that concerns relating to security lighting had been raised, contrary to planning permission CA/04/539. I am currently processing a retrospective planning application relating lighting which has attracted planning objections. The applicant has been asked to respond to a number of issues raised during the planning process and I have chased for an early response on these matters to enable the application to be reported to the Planning Applications Committee.

F M Conway Site, Rochester Way, Dartford

47. This case has been reported to previous Committee meetings since 2004 and relates to the development of an unauthorised waste management facility on the site. A considerable number of complaints were received from the neighbouring residential development concerning noise, dust, odour, lighting impacts and that the development did not have planning permission.
48. Since the complaints, this authority has considered two retrospective planning applications, which enabled the planning merits of the development to be tested. The first related to the drainage treatment plant, aggregate washing plant and industrial and storage units (DA/04/770). Permission was granted in November 2005 subject to conditions and a legal agreement. The second application (DA/04/787) related to the use of part of the site for screening, crushing and processing of aggregates, construction and demolition waste and ancillary storage. The Planning Application's Committee refused planning permission for this development on the grounds that the application had failed to satisfactorily demonstrate that the proposal represented BPEO (Best Practicable Environmental Option) with regard to the proximity and self sufficiency principles, that it would have an unacceptable impact upon local amenity with regards to dust and in light of this it had failed to demonstrate an overriding need for the development.
49. At the June 2005 meeting, this Committee considered the circumstances of the case and whether to pursue enforcement action. In particular it took into account the outstanding Certificate of Lawful Use Development (CLUED) application (which contests

Update on Planning Enforcement Issues

that planning permission is necessary for the refused development) and the agreed working protocol which is in place and which safeguards amenity impacts. The Committee resolved to defer the taking of formal enforcement action until the uncertainty concerning the lawful use was resolved (ie once the CLUED appeal is determined) and that in the event that the CLUED appeal was dismissed (refused) or there was an unacceptable intensification of activity on site, contrary to the working protocol, then the need for enforcement action was supported. The informal working protocol sets limitations concerning the way the development is carried out including restrictions on stockpile heights, dust suppression measures and the adoption of good practice on the production of aggregates from inert waste

50. I advised in January that the Company has appealed both this Council's refusal of planning permission and Dartford Borough Council's failure to grant a Certificate of Lawful Use (CLUED) for the development. The Planning Inspectorate has co-joined the appeals and scheduled a public inquiry for June 2006. Members agreed to continue to monitor the site and consider the need for enforcement action should there be an unacceptable intensification of activity on site contrary to the working protocol.
51. By way of an update, the working protocol continues to be operating well and I have not received any specific complaints since the January meeting. I have monitored the site, including the impact from the adjacent housing area, Braeburn Park. On these occasions I have found no breach of the working protocol. In April, I received a further retrospective planning application for the screening, crushing, processing and storage of aggregate and construction and demolition waste on the site. The application specifically seeks to address the grounds of refusal imposed by the Council's Planning Application's Committee when it refused permission in March 2005. The application is currently being processed. It has attracted objections from local residents who raise a number of concerns including noise, dust, odour and visual impacts. The Planning Inspectorate has suspended the planning appeal for the original application, which was scheduled for June 2006 to enable the County Council to consider the merits of the revised proposal.
52. In light of the circumstances of this case, I propose to continue to monitor the site and consider the need for enforcement action should there be an unacceptable intensification of activity on site contrary to the working protocol.

Land near junction of Thames Rd/Burnham Rd/Clive Dunn Way, Dartford Marshes

53. This case concerns the unauthorised change of use of an area of marshland land bounded on side by a sea defence bund, to a mixed use including the tipping and storage of inert waste materials, including gravel for hardstandings; the parking and storage of large goods vehicles and various items of plant and machinery, apparently including at one stage a soil screener.
54. The case has attracted initial Borough and Environment Agency action. The Borough has already served a Temporary Stop Notice and an Enforcement Notice for the district range of alleged contraventions on site. The Enforcement Notice has been appealed and I understand that the case is to be heard by public inquiry. The EA for their part have impounded one of the lorries for alleged waste related offences.
55. Having reviewed the case with the other two bodies it appears that the potential for the extensive depositing of waste on the site is high, particularly given the sea wall as containing bund. Consequently, I should appreciate Member support for the service of

Update on Planning Enforcement Issues

an Enforcement Notice and for any required injunctive action, to arrest and restore any current or future waste depositing, or related processing on the site. This would serve to consolidate the actions of the other two controlling bodies, with the potential for joint witness evidence.

St Edmund's School, Old Charlton Road, Dover

56. A planning application for the erection of a business resource centre (DO/05/729) was considered by the Planning Applications Committee at its December 2005 meeting. Members resolved to grant planning permission subject to conditions and the decision was issued on the 16 December 2005.
57. The development site is at the southern end of the school site. To the east is Charlton C of E Primary School, to the west and to part of the south there are residential properties. A car park is also located to the south. To the north is a hard surface play area.
58. The construction of the new building is now proceeding and as a result of the steel structure being erected a complaint has been made by local residents, via Dover District Council, that the position of the building differs from that shown on the submitted drawings. This has also been brought to the Architect's attention and following a review of the situation he has confirmed that it has moved further to the south by about 3 metres and to the west by about 600 millimetres. Apparently this has occurred because of a discrepancy between the Ordnance Survey plan, on which the application drawing was based, and subsequent site survey details, particularly in relation to some existing steps from which the building was set out.
59. Clearly this is not authorised by the planning permission granted and as a matter of urgency the Architects will now be submitting a retrospective application for the resiting of the building.

Tutsham Farm, West Farleigh (MA/04/comp/60)

60. I have previously advised this Committee of the unauthorised deposit of builder's waste (soil, stones, metal, plastic and kitchen appliances) on the southern bank of the River Medway. Investigation with the Environment Agency (EA) established that the land had been raised by several metres and that the EA were considering actions under the Environmental Protection Act 1990, especially given potential pollution to the River Medway. This was to include possible clearance of the site.
61. I earlier advised that the Environment Agency were taking the lead on this case but I had served a Planning Contravention Notice (requiring by statute, the submission of relevant information from the alleged contravenor) as a precursor to the possible service of an Enforcement Notice should the EA fail to pursue their own action. In reply to the Planning Contravention Notice, the operator asserted that the deposited waste materials were the result of operations on the farm and were therefore permitted development. In light of this and following a review of the planning history of the site and its environs, I find it difficult to believe that the quantities deposited could have been generated from within the general land holding. Up to date investigations by the EA have served to reinforce this point and action by them is still a possibility, although waste inputs have currently been suspended.
62. The EA have maintained their investigations of the landowner and his alleged waste related activities. Under this level of scrutiny, no further tipping has taken place, allowing

Update on Planning Enforcement Issues

attention to turn to the restoration of the affected field and the protection of surrounding land from similar damage. In the context of other priorities and in the absence of a negotiated settlement I still intend to serve an Enforcement Notice to protect the field and return the natural contours as far as practically possible. On the more general protection of the wider landholding, Member's support is again sought for the further contingency of a court injunction should that prove necessary.

Shepherds Farm, Lenham

63. A number of issues relating to non-compliance with the permitted scheme of working and plant details were reported to the previous Regulation Committee. It was also reported that the new site owner, Brett Aggregates, was reviewing site operations. Discussions with Brett Aggregates have since revealed further issues relating to working at the site. Specifically, these relate to slope stability and side slope profiles. Brett Aggregates has been asked to make any necessary submissions to regularise matters as soon as possible.

Poll Hill Gypsy Site, Halstead, Sevenoaks (SE/03/comp/0085)

64. This case has been reported to earlier meetings of this Committee and relates to the unauthorised deposit of a significant amount of spoil on land immediately north of the Poll Hill Gypsy site. The works were carried out throughout the summer of 2003 and have created a large mound some 5m + above the adjacent A224 Poll Hill Road. The site is a sensitive protected location within the Metropolitan Green Belt, an Area of Outstanding Natural Beauty (AONB), Special Landscape Area (SLA) and Ancient Woodland. The works are highly visible from the M25 motorway.
65. Investigation established that the site had a history of fly-tipping and burning which had resulted in the Fire Brigade being called out on regular occasions. On occasions, smoke would travel across the neighbouring M25 creating a hazard for motorists. As a result, the Council's Gypsy Unit sought informal advice from the Environment Agency to over-tip the fly-tipped material and to create a barrier to prevent further tipping. No planning permission exists for the works, nor was advice sought from the Planning Applications Group before the works took place.
66. This Committee was previously advised that the scale of works carried out appeared to be far in excess of that required to address the problem and that the works had been poorly engineered and are over-steep in places which may create future stability problems. Officers from the Gypsy Unit have been advised that the retention of any material here will require planning permission and that the scheme is not likely to be acceptable in its current form. Given the County Council's involvement, formal enforcement action under planning legislation is not a possibility. The Environment Agency can however prosecute breaches of Waste Licensing and Environmental Protection legislation. The tipped land is within the ownership of the Highways Agency
67. To consider the implications of this case and how best to advise on a resolution strategy, it was agreed that further geo- technical information was required. This work was commissioned and its findings presented in an initial geo-technical report. This report identified the need for further work with regard to risk to groundwater, human health and landfill gas. This view was supported by the Environment Agency, whose role will be pivotal in resolving this case.
68. Methodology for the further work was agreed with the Environment Agency (EA) and a

Update on Planning Enforcement Issues

second report (report) following the survey work was submitted to the Planning Authority in April 2006. This document is currently out to consultation with the EA and representatives of the landowner. Once I have their views I will be better placed to advise Members how best to resolve this case.

Four Gun Field, Upchurch

73. This case concerns a proposed waste related use on a former brickfield site, next to housing, on the Swale Borough/Medway Council border. The site benefits from an industrial lawful use certificate. The Borough Council has an interest in terms of the industrial element and in enforcing a Noise Abatement Order, which pertains to the site. The County Council has a potential interest in relation to the waste elements. I am in close and on-going contact with the Borough Planning and Environmental Health Departments concerning the implications of any potential development that might take place under claimed cover of the Lawful Use Certificate. That includes a readiness to enforce under each authorities respective remit, should unauthorised and pre-emptive development occur on site.
74. Up to now I have been tracking events and in my opinion no conclusive enforceable development in County Council terms has so far taken place. Establishing the exact nature of the proposed development has meanwhile proved very difficult, notwithstanding the service of a Planning Contravention Notice. The potential site developer has so far failed to specify in precise terms the form and nature of any proposed County Matter development.
75. There have been sporadic but temporary and minor uses of the site over the past 2¹/₂ years. For instance, stone crushing 'noise trials' have been carried out and the importation of some waste materials to the site. The Environment Agency has now determined that the material is indeed waste. A large consignment was derived from the cleaning out of an asphalt recycling plant. The Borough Council informed me that the operator intended the material to be used in the construction of a hardstanding. That however required planning permission. An application was invited by the Borough but the invitation was declined. In view of that the Borough served a Section 215 Notice on the land. That requires removal of the waste on amenity grounds. There is no right of appeal in the normal way (for example in the case of an Enforcement Notice) but the service of the S215 Notice itself can and indeed has been challenged in the Magistrates Courts.
76. There have been several procedural hearings but no decision in court as to the validity of the Notice. The last court date of 8th February 2006 had to be adjourned, as the Borough's advocate was unable to attend for personal reasons. I am awaiting confirmation of the revised date for the hearing. I shall continue to track the progress of the Notice in court. The serving of a parallel site clearance notice by the EA is another possibility by way of supporting the Borough's stand.
77. I reported to the last Meeting that the operational interests on the land had confirmed through their solicitor that they are obliged to vacate their present site in Canal Road, Strood by June 2006. That follows its compulsory purchase by Medway Council. They view Four Gun Field as a replacement site and apparently intend to re-locate there. To facilitate this they have previously indicated that they were about to issue proceedings against the County Council in the Administrative Court (i.e. the relevant part of the High Court) for a Declaration that their proposed intentions for the site come within the terms

Update on Planning Enforcement Issues

of the Lawful Development Certificate. In other words that they should be allowed to move onto the site without the need for planning permission.

78. This proposed action has not materialised and with it the threat of costs against the County Council for commercial damages as part of the proceedings. With the help of Counsel a letter has been sent reasserting in detail the County Council's position that planning permission is required for any waste-related use on site. It has also been pointed out to the operator's solicitor that in the case of a difference of opinion with a local planning authority, there is the ability to apply for a Certificate of Proposed Lawful Use (a CLOPUD). That requires a formal decision on whether or not an Authority considers that a proposed use falls within an existing lawful use and attracts a right of appeal. The option of submitting a CLOPUD has been declined in this instance.
79. Correspondence has continued, with an allegation of maladministration being directly refuted by the County Solicitor. The latest letter from the operator's solicitor signals that a formal complaint of maladministration is about to be made and *"a claim for the losses resulting from your Council's improper campaign of intimidation and misinformation since 19 June 2003..."*. Declaration proceedings in the High Court as outlined in paragraph 77 and 78 above have again been threatened.
80. I am taking further legal advice on this latest turn of events. However, I can see no material change in the situation to demur from our current and unequivocal position. I shall update Members on the position at the Meeting and in particular a very recent report that services are being laid on at the site. This will need urgent investigation with the Borough Council.
81. In view of renewed activity and a potential use developing at the site this Authority has to remain alert in the public interest to the possible need to take enforcement action. As an ongoing contingency I would therefore seek Member's continued support for the service of an Enforcement Notice. In addition to that I am also seeking support for any injunctive or joint action with the Borough Council and the EA which is deemed necessary under the advice of the County Solicitor and our retained barrister.

Woodger's Wharf, Upchurch

82. This case concerns the use of a marine wharf at Otterham Quay, Upchurch for the screening and crushing of largely inert materials. The planning history on the wharf is involved. Essentially, a Lawful use Certificate was issued by Swale Borough Council in 1996, which allows for the sorting, storage and reclamation of marine related materials and the sorting and supply of hardcore and ragstone for largely sea defence purposes. The materials are to be landed and removed by boat.
83. However, it has apparently been accepted informally by Swale Borough Council that as well as landing the material by sea, a degree of road importation (i.e. for sea defence purposes only) falls within the scope of the Lawful Use. To formalise the position 2 Lawful Use applications have been submitted to the Borough Council, covering a spectrum of activities, including the storage, crushing and sorting of materials for re-use in construction projects, imported and distributed by road. That attempts in my view to turn the wharf into a normal 'inland' waste processing facility, as evidenced in the centre by a stockpile of reject concrete beams from a local manufacturer some 9 metres high. These have been imported by road. Both applications have been refused by the Borough Council.

Update on Planning Enforcement Issues

84. My view is that the activities at the site substantially exceed the terms of the base Lawful use for wharfage purposes. In my opinion, planning permission is therefore required. Material harm continues to be caused to the amenity of local residents and to the site itself from the apparent stripping of soils and movement of heavy machinery. The adjoining internationally protected ecological areas are also exposed to dust, disturbance and uncontrolled surface runoff and ground seepage. My objective is to bring the current activities to a halt, to have the site cleared and repaired and then to establish in more precise terms with the Borough Council and the landowner, the lawful use position. That would also set the dividing line between the Borough and County Council's jurisdiction over the site.
85. I reported to the last Meeting that the major input of reject concrete beams for crushing had been stopped bringing a temporary respite. Also, that Counsel was of the opinion that a negotiated settlement is the best approach in this instance and still holds to that view. Further, that I had urgently met with the landowner's planning consultant to impress on him that the activity is under challenge from the County Council and ultimately that the landowner faces the cost and responsibility for site clearance. My aim is to broker a position where the materials on site (i.e. above and beyond any reasonable lawful quantities) are removed - predominantly through the wharf - by a combination of the waste generators, the hauliers and processing company, along with the landowner(s). The task is logistically challenging given the significant quantities of materials on site, the lack of a viable access, the restricted site area and the sensitive site surroundings.
86. I have since placed the formal position with the principal landowner's solicitor. He has accepted the breach, maintains that his client has tried to control his operating lessee and would support any action by the County Council to restrain the activity on site. I have stated that this is not a tenable position for him to adopt and I am pressing for a more definite plan of action for control of his own land. I have also met the operator on site in the presence of the Borough Council (planning and environmental health) and confirmed in person that the operator is exposed to injunctive action should the site activity continue. Since the meeting the level of activity has dropped but has not as yet ceased. The Environment Agency have some formal powers to challenge lorries entering the site, which I am also pressing them to use.
87. Given the protracted nature of the case, I have explained my enforcement strategy to local people through a public meeting. To further reassure them further I am seeking Members continuing support for the service of an Enforcement Notice and as a contingency the pursuit of interim and full injunctions against identified parties to secure cessation of activities on one hand and site clearance and restoration on the other. I shall report further on this situation at the Meeting and in particular on any firming of the landowner's position.

Lime Kiln Wood, Wormshill, Sittingbourne

88. I have previously been alerted to tipping in an area of woodland at this location. The Environment Agency had been taking the lead but had failed to have an impact on the breach over an extended period of time. I therefore served a Planning Contravention Notice but the landowner was found to be untraceable. In the interim, I arranged for the involvement of the Police given alleged vehicular irregularities. I also arranged for monitoring by the County Council's Environmental Crime Team, in an attempt to trace

Update on Planning Enforcement Issues

the responsible parties. This again proved inconclusive.

89. Eventually, I made contact with the apparent landowner and brought a halt to the tipping. I was also successful in persuading Swale Borough Council to serve a Tree Preservation Order on the undamaged parts of this downland copse. Any damage to the protected trees carries a potential fine up to £20,000 on conviction. Since then unauthorised tipping has ceased. Nevertheless, I should seek Members continued support for the service of an Enforcement Notice to ensure restoration and prevent further tipping.

Church Marshes, Sittingbourne

90. I have been alerted to complaints of odours from green waste being deposited on the former Church Marshes waste landfill site from Civic Amenity sources. On investigation, this was being introduced as 'land enhancement' by the contractors carrying out Swale Borough Council's Country Park development on the surface of the site. Planning permission was granted several years ago by the Borough Council for a public recreational project on their own land.

91. The contractors had previously been advised by me that the introduction of green waste onto the land for composting would require planning permission from the County Council. It transpired that the direct introduction of the material to the land was tried instead. That equally requires planning permission and that fact was brought to the immediate attention of all relevant parties. The practice ceased, pending the outcome of any potential application to supplement the land treatment in this way. Swale Borough Council officer's agreed that permission was needed and that this waste depositing element should properly fall within the County Council's planning remit.

92. I have been assured by the Borough's project manager for the Country Park that the scheme is not dependent, nor would its timetable for implementation be unduly affected by my intervention. I have had a further meeting with relevant parties at the Borough Council offices and an application is now anticipated. Meanwhile, I am content that no pressing remedial works are necessary in relation to the material already brought onto site.

Minster Primary School, Sheppey

93. I advised the previous Committee of complaints concerning the installation of CCTV cameras and extensive re-modelling of the playing field. Two retrospective planning applications are to be considered by the Planning Applications Committee on 16th May 2006. The first relates to regarding works to the playing field to infill a dish shaped depression, which were carried out in July/August 2005. To address local residents concerns, the application also includes a 1.8m close-boarded fence on the perimeter of the field and native hedging. Officers are recommending that subject to no objections being received from the Borough Council or the Medway Internal Drainage Board prior to the meeting on the 16th May that permission be granted.

94. The second application seeks permission for the installation of 14 CCTV cameras and poles at 5 locations on the site. Officers are recommending that permission be granted. I will advise Members of the outcome of the Planning Applications Committee at the meeting.

Westwood Industrial Estate, Channel Road, Margate

95. I advised the previous Committee that a waste recycling centre was operating without

Update on Planning Enforcement Issues

the benefit of planning permission. Investigations had established that an operation involving paper, plastic tin cans and glass was taking place on site. In accordance with the Enforcement Protocol, a retrospective planning application was invited which would allow the planning merits to be assessed. The first application was found to be invalid and was returned to the applicant. A revised application has recently been submitted and is currently being validated. In the meantime, I have received no further complaints about the operation

Oast Park Farm Golf Club, Snodland

96. I am reporting this matter in response to local complaints concerning a golf course development at Snodland. The scheme which has progressed in two phases was originally granted planning permission by Tonbridge & Malling Borough Council in 1990. For that reason, the Borough is taking the enforcement lead in this case, though the Environment Agency has been considering separate action.
97. The complainants are alleging that the site has been overtipped, some non-construction materials have entered the site, footpaths are being constructed, flooding and drainage characteristics have been changed to the detriment of adjoining land interests, sand extraction has taken place with attendant noise and dust impacts and overall there is an haphazard approach to the scheme and poor site control.
98. I have reviewed these issues at a joint meeting with the Borough Council and the Environment Agency. The Borough Council has conducted a site survey, which in their opinion keeps the materials on site mainly within the apparent permitted site levels. There are reservations on compliance however on some localised raised areas. These are to be the subject of further investigation.
99. I am satisfied that the County Council has no central enforcement remit at this time. Nevertheless, I intend to contribute to the multi-agency effort here. I am concerned though on the extraction of sand. I have no evidence of material leaving the site in terms of a mineral extraction breach. However, I have asked for urgent confirmation from the Borough Council on the precise need within the scheme for such extraction. I am sceptical that the activity can be justified and would seem to represent a further infringement to the scheme. I shall monitor this aspect.
100. The only current and direct enforcement power available in this case to the County Council is to challenge any obstruction to the public rights of way network (PROW). I am aware that this is being monitored by the PROW group with a view to action if required.
101. I hope to confirm the position on the sand extraction by the time of the Meeting.

Whiteladies Gas Control Compound, Offham Landfill Site, Offham

102. Matters relating to the Whiteladies Gas Control Compound have been reported to the Regulation Committee on a number of occasions. Specifically, these have related to the lack of progress with the planning application (TM/04/3135) to regularise the equipment and layout and noise emissions from the plant (which has already been installed). In addition, specific problems have been experienced in meeting existing noise limits at the nearest noise sensitive properties at night due to tonality / low level noise associated with the 'in-rock' gas flare. WRG is progressing works to address these concerns and further noise monitoring is being undertaken to assist with these works. I have not received any complaints relating to these breaches.

Update on Planning Enforcement Issues

Addington Sandpit, Addington

103. A number of issues relating to non-compliance with the permitted working and restoration of the site were reported to previous Committees. The issues primarily relate to the need to address the slope stability of the restored landform and the associated need to temporarily store silt and overburden materials in the base of part of the site. Hanson is preparing the necessary submission(s) to address the issues and an application is expected shortly.

Stangate West Landfill Site, Borough Green

104. A number of technical breaches of planning control relating to noise monitoring, leachate control, landscape and aftercare requirements were reported to the last Committee. A planning application and a number of submissions are currently being processed to address the issues.

Ham Hill Sandpit, Snodland

105. A number of issues relating to the site were reported to the previous Committee. These related to the unauthorised storage of imported limestone in the base of the sandpit, the failure to install covers on two dust storage bays and to submit surface water drainage details pursuant to permission TM/01/1862 and the failure to submit quarterly returns for 'out of hours' working. A number of submissions have now been made in respect of these matters and permission has been granted for the covering of the dust storage bays.

Eaglesden Farm, Mill Street, Iden Green, Benenden

106. This case concerns the importation of builders waste & hardcore within a site within the AONB. An inspection established that large volumes of waste materials had been tipped in a small valley not visible from the highway. The landowner was challenged and told to cease pending a decision on restoration. A previous County Council temporary permission (TW/96/73) to infill a small pond on the land was cited as justification for the tipping. This however lapsed in 1998 and in any event the tipping is over an extended area. A Planning Contravention Notice has been served on the landowner and I anticipate the need to follow that with an Enforcement Notice to protect the land and secure appropriate sensitive restoration in this AONB setting. In the meanwhile I shall continue to monitor the site and prevent any resumption of tipping, pending reinstatement of the land.

Resolved Cases:

107. Complaints relating to breaches of planning control at the following sites have been investigated and are now resolved.

Ripley's Site, Bilsington, Ashford

108. I advised the January Committee of a complaint concerning out of hours working at the site, principally at weekends. The complainant was asked to keep a diary to establish whether there is a pattern to the alleged breaches and to provide evidence to support enforcement action. I have received no further complaints or information relating to this issue. Further complaints were however received relating to burning on the site, noise and vibration from cranes on site and doubts about the validity of the planning permission for a none storage use. Investigation established that the site is operating within the terms of the planning permission. The issue of burning and noise

Update on Planning Enforcement Issues

are matters for the Borough Council and/or the Environment Agency to address and the complainant was advised to raise the issue direct with those regulators.

109. In addition, officers met the operator on site in April and found the site to be organised and tidy. There was no evidence of any planning breaches. I am therefore taking no further action on this case.

Charing Heath Road/Newlands Road, Charing Heath

110. In March I received a complaint concerning the deposit of old tyres within a disused pit off Charing Heath Road. Access was being gained via a broken fence. Upon investigation, the scale of the tipping was found to be of a fly-tipping nature and the case was referred to the Council's Environmental Crime Team. I am taking no further action.

Stone Pit 2 St James Lane, Dartford

111. On 6th February I received a complaint concerning mud on road which had allegedly caused an accident on the 3rd February 2006. Investigation with the operator found no evidence of mud on the road that week, but due to the delay in reporting the incident this could not be corroborated by a site visit. There have been a number of previous incidents of mud being deposited on the road allegedly arising from operations on site, contrary to conditions 11 and 12 of planning permission DA/98/805/MR 27. The site has a variety of measures in place to meet the requirements of the planning conditions, which are usually effective in keeping the public highway free of mud and debris. It was agreed at the January meeting that any further breaches of the conditions would result in formal enforcement action in the form of a Breach of Condition Notice. Given the circumstances of this latest complaint and that it cannot be corroborated I cannot recommend enforcement action on this occasion. I will however continue to monitor this site.

Pinden Quarry, Longfield

112. In February complaints were received concerning the deposit of mud and debris on Green Street Green Road and in the air from lorries associated with Pinden Quarry. Doubt was also raised about possible breaches in the number of permitted lorries leaving the site. Investigation established that the site had recently been acquired by a new operator (Bishops) and that it was operating in accordance with the permitted traffic movements. However, problems were identified with the wheel-wash facilities. As a result the operator advised that he had ordered new wheel and chassis cleaning equipment and 2 steam cleaners to address the complaints. I have received no further complaints relating to this issue, but will continue to monitor the situation.

Bakers Hole, Dartford

113. A complaint was received in March from local residents concerning dusty conditions in the Stanhope Road area. The complainant considered that the dust arose from activities on the landfill site. Investigation established that dust mitigation measures were in place at the time including the use of the water bowser. I have received no further complaints, but will continue to monitor this site.

Brown and Mason Yard, Ramsgate Road, Stonar

114. Concerns were raised about land levels in February and March 2006. Investigation established that the levels formed part of the initial site preparation works for the site in

Update on Planning Enforcement Issues

connection with planning permission DO/03/477. Officers advised that providing that the overtipped material is removed from site prior to the construction of the waste management facility, there is no breach of planning control.

AAJAY'S, Simon's Salvage Yard, Station Road, Harrietsham

115. I reported to the January Committee that an unauthorised waste management operation had been established on the site and that steps were being taken to clear the site. The site was inspected in May 2006. There was no evidence of waste activities and I am therefore taking no further action on this case.

Land adj to Hamilton House, Bletchenden Rd, Headcorn

116. Maidstone Borough Council sought the County Council and the Environment Agency's assistance in clearing a site in Headcorn where waste material was being deposited. Investigation established that the site was a mixed-use site containing two skips loaded with builders' waste. The site also contained several small stockpiles of tipped waste materials consisting of hardcore, spoil, metal, plastic, wood and sanitary ware and stockpiles of wooden rails, large metal containers and motor vehicles. It appeared that the operator had been using the site to conduct his unauthorised commercial skip business and as a general storage area. I also established that the Borough Council had served a s215 Clearance Notice in 2003 and that the landowner/operator had recently died and his property is intestate.

117. Under the County Enforcement Protocol, it has been agreed with Boroughs / Districts that small mixed-use sites, such as this, would not be dealt with by the County Council. I advised the Borough Council that in this case, resolution and site restoration to agricultural land was probably best achievable by way of the existing s215 Notice or via s59 Removal Notice served by the Environment Agency. I advised that the County Council would be willing to provide evidence to support any breach of an existing s215 Notice or a replacement Notice, or alternatively provide evidence to support the service of s59 Removal Notice. I am taking no further action on this case.

Field behind The Vicarage, Church Hill, Boughton Monchelsea

69. I received a complaint that the land-owner was depositing waste materials on the site in February 2006. Investigation established small scale storage of white goods, building materials and several small piles of topsoil and compost. There was also evidence of burning. There was no evidence of waste processing or a clear enforcement remit for the County Council. Restoration of this site would be best suited by way of the service of a s215 (Untidy Site) Notice by Maidstone Borough Council or the service of s59 Removal Notice by the Environment Agency. I advised the complainant of this and therefore forwarded details to the other regulators for attention. I am taking no further action on this case.

Greatness Quarry, Sevenoaks

70. A complaint was received concerning seagulls attracted to the Cory Landfill site. The matter was referred to the Environment Agency who drew the operator's attention to its obligations under the Waste Management Licence with regard to birds. No further complaints have been received.

Update on Planning Enforcement Issues**Rear of Dunes Road, Greastone, New Romney**

118. Complaints were received concerning the main drainage works being undertaken by Southern Water Services in New Romney. The complaints related to the inconvenience of traffic movements associated with the location of the site compound to the rear of residential properties. Investigation established that the residents concerns were justified with wheel rut damage on the grass verge despite the protective grasscrete, a blocked drain allegedly from mud deposits from vehicles entering and exiting the compound and a very thick, slurry and muddy surface, which vehicles appeared to spread inside the compound and in Dunes Rd. I saw no evidence of any wheel wash facilities. The site compound had also been constructed closer to residential properties than on the permitted scheme.
119. Following discussions with the site operator and the complainant, it was proposed to erect a fence between the complaint's rear garden & the compound. I have informed Southern Water that notwithstanding these discussions there is a duty on them to follow the agreed terms for the construction of the compound and the safeguarding of very nearby residents. Whilst the footprint of the compound is now correct the boundary fencing is still not in place and other points of detail have not been followed.
120. The breaches here involving a statutory undertaker as developer, a new planning permission and very proximate housing is in my view completely unacceptable. I have conveyed this to the organisation. I am confident that corrections can be made to the compound but I would seek Members backing to a further letter expressing the dismay of the Committee and seeking assurances that the main sewer scheme is carried out in proper compliance with the planning permission.

Belsom Plantation Lodge, School Lane, Iwade (SW/04/comp/0048)

121. A complaint was made to the former local Member Mrs Stevens concerning the burning of substances on site resulting in black smoke and an untidy site. Investigation established the deposit of unauthorised waste materials on the site and that Swale Borough Council had served an Enforcement Notice and the Environment Agency a Site Clearance Notice. Subsequent site visits have confirmed that the material is gradually being cleared and in light of the Borough and Environment Agency actions, this Authority will continue to undertake a monitoring role

Foley Site, Plantation Lodge, School Lane, Iwade

122. This site adjoins the above site at this location in Iwade. However, in this instance there is an unauthorised skip business and related caravans and motor vehicles, which has attracted a Borough Council Enforcement Notice. The Borough Council and the Environment Agency have enforcement control of the site and again, this Authority will continue to undertake a monitoring role. As with the former site, a productive multi-agency approach has been taken. To demonstrate this, I had submitted a supporting statement to the Planning Inspectorate, in relation to an appeal against the EN. This was to have been heard by way of an Informal Hearing. However, the alleged contravenor has now left the site and as a consequence withdrawn his appeal. I shall keep Members informed of the progress towards restoration through the remaining land interests.

Land Between George Hill Road and Reading Street, Cliftonville

123. Reports were received of unauthorised tipping of waste material to create a hardstanding. Investigation established that the site was used in connection with the owner's agricultural and garden centre business. Approximately 12 lorry loads of

Update on Planning Enforcement Issues

hardcore and a stockpile of road sweepings were stored on site for the creation of internal tracks on the land. It was also established that Thanet District Council had previously served a Planning Contravention Notice (PCN) for the works. Following this, the District Council had advised the landowner in writing that the stockpiling of the material was permitted development providing that it was used in connection with the agricultural use of the land. I would agree with the interpretation and am taking no further action on this case.

Pearsons Sand pit, Addington Lane, Trottiscliffe

124. This site is a former sand quarry which has since been fully worked out. It is located in the Metropolitan Green Belt, Area of Outstanding Natural Beauty and Special Landscape Area, subject to which development plan policies seek to protect the interests of such areas in the long term. Under the terms of previous planning permissions, provision was made for the importation of waste materials upon completion of extraction in order to secure restoration back to original levels with the final reinstatement of the site to agriculture.

125. I have continued to keep Members informed at previous meetings on what progress has been made towards securing the final restoration of this site. In my last report to the meeting held on 31 January 2006, I advised that the operator was suffering difficulties in attracting suitable restoration material to the site in the light of the number of alternative sites in the County offering free tipping for such material. Despite these difficulties, site visits made in December and January revealed that the operator had continued to make progress, with the exception of a small area occupied by plant used to screen material and he had managed to infill the remainder of the site to approved levels in preparation for being seeded to grass this forthcoming season. Given the planning permission had since lapsed (December 2005), the operator was advised that, in my view, there was sufficient material available on site to complete final restoration and that no further materials may be imported to the site.

126. Upon visiting the site in early May, with the exception of some plant awaiting relocation off site, the dismantling of the existing weighbridge (which I understand will be removed during mid-May) and removal of part of the internal access road, I am satisfied that the site is close to final restoration. However, I understand that upon completion, the operator has aspirations to use adjoining already restored land to erect a stable block for horses, an application for which would be dealt with by Tonbridge and Malling Borough Council. In order to facilitate this use and to enable him to continue to meet the terms of the existing planning conditions he has been advised to submit a section 73 application seeking the retention of the access to the site along with the retention of an existing storage building. He has been advised that any planning application to the County Council should seek to downgrade the existing access, including the reduction of the bell mouth along with new gates, to reflect the agricultural setting in the AONB. I will continue to undertake regular monitoring in order to ensure that this is achieved.

Cemex Quarry, Borough Green

127. A complaint was investigated concerning mud on the highway associated with works at the quarry. The issue was raised with the operator and measures were taken to address the complaint. I have received no further complaints.

Joco Pit, Borough Green

128. A complaint was received concerning potential sand extraction. Investigation

Update on Planning Enforcement Issues

established that the works were related to archaeological investigation and there was no breach of planning control.

Site Monitoring

129. The Site Compliance Officer has monitored a number of sites that have previously been the subject of enforcement complaints.
130. Since the last Regulation committee, 28 permitted sites have been formally monitored. This has covered a range of permissions, including recent permissions and ones that have not been formally monitored for some while. Issues found ranged from minor layout differences, significant changes either in the layout, plant used, scale and intensity of the activities and activities outside the permitted boundary. The most common finding has been operators amending their site layout without relevant approval. These issues are being reported to site operators and we are awaiting a number of formal submissions as a result.
131. It is expected that some follow up work to monitor amendments by operators as a result of visit reports will be carried forward to 06/07 monitoring year. However, it is also expected that the frequency of monitoring will be significantly reduced in the next few months as we concentrate on preparatory work relating to the introduction of chargeable monitoring visits at mineral and landfill sites.

Update on Members Concern regarding Court Procedures

132. Members may recall that the Committee resolved in June 2005 to inform the Chief Executive of the Court Service in Kent of the Committee's concerns over the substantial delays that are occurring within the Kent Court System in dealing with breaches of planning control. These breaches result in continued and unacceptable impact on local residents and damage to the environment and reassurance was to be sought that such cases will, in future, be dealt with on an expedited basis. A letter was sent by the previous Chairman of this Committee to the Area Director for Kent in August 2005. Despite both written and telephone chasers, the Court Administrator failed to reply. Members therefore resolved to write again drawing attention to this Committee's concern. As can be seen from the Lydd Skips case above (para. 30), Officers are still experiencing serious delays in getting cases heard. This case in particular has now had 9 court appearances to date with 2 further appearances scheduled.
133. Officers wrote on behalf of the Committee again in April and at the time of writing there has been no reply, nor acknowledgement. Should this be the situation at the Committee meeting, I propose that the Committee raise the issue with the Court's complaint's procedure.

DeFRA's Consultation on the Review of England's Waste Strategy, 2006

134. The Government recently undertook a consultation exercise on the above. Part of the document considered waste crime and the effectiveness of tools to address this, concerns that this Committee has previously raised. The County Council's comments on the Strategy are signed off by the 2 relevant portfolio holders.
135. The Draft Strategy is heavily biased towards fly tipping and makes no direct reference to the waste development operations that are carried out in breach of planning and waste management legislation and cause significant and potentially irreversible

Update on Planning Enforcement Issues

damage to the environment. This is an unfortunate omission and in replying to the consultation, the Head of Planning Applications Group drew attention to this and raised a number of other concerns which have been raised previously by this Committee. In particular these related to:

- (i) The Strategy should be revised to explicitly address the elements of waste crime involving the waste development operations that are carried out in breach of planning and waste management legislation and cause significant and potentially irreversible damage to the environment.
- (ii) The power and resources available need to recognise the seriousness of environmental crime and the potentially large sums that can be earned from unsustainable waste management practices. Such practices avoid landfill tax and divert resources away from beneficial activities such as recycling and recovery.
- (iii) Regulators and the Magistrates service need swift and effective powers to address environmental crime. The powers available to the Waste Planning Authorities are considerably less effective and more cumbersome than those available to the Environment Agency and District Councils. There is scope for the selected transference of powers on an agreed case by case basis. It is noted that the tools in the Clean Neighbourhoods and Environment Act 2005 are not available to the County Planning Authorities.
- (iv) Magistrates and court staff need to recognise the serious nature of waste crimes and impose fines that reflect this. Court procedures need to be put in place that resist delaying tactics advocated by some contravenors.
- (v) There is considerable abuse of the 'exemption's to the Waste Management Licensing legislation resulting in confusion and conflict with other regulations. A review of the current 'exemptions regime' is required.
- (vi) The risk of compensation and the protracted procedures that currently run with the service of a Stop Notice need to be reviewed.
- (vii) Greater use could be made of 'spoil management initiatives' to steer development spoil to permitted and beneficial locations.

Summary

136. Good progress has been made on a number of high profile sites. As a guiding principle, resources are targeted to those activities that have the potential to create the greatest environmental damage in accordance with the adopted Enforcement Protocol. Since the last meeting, considerable resources have been targeted to address serious breaches within the Swale area. Due to the complexity of enforcement cases, counsel is involved on key sites to help shape enforcement strategies at an early stage.

137. With the recent appointment of an additional officer, site monitoring is being undertaken on a more formal basis and work is ongoing to implement a new statutory monitoring scheme for selected mineral and waste development.

Update on Planning Enforcement Issues

Recommendation

138. I RECOMMEND that MEMBERS

- (i) ENDORSE the actions taken or contemplated on the respective cases set out in paragraphs 9 - 137 above.

Case Officer: R Gregory

S Thompson

Background Documents: see heading

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Agenda Item 7

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Agenda Item 8

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