



AGENDA

REGULATION COMMITTEE

Tuesday, 27th January, 2009, at 2.00 pm
Council Chamber, Sessions House, County Hall,
Maidstone

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

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

UNRESTRICTED ITEMS

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

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes (Pages 1 - 8)
 - (a) Committee: 18 September 2008
 - (b) Member Panels: 31 October 2008
12 November 2008
4. Proposed amendment to a Regulation Committee Member Panel Procedure (Pages 9 - 14)
5. Transport Appeal Panels Procedures (Pages 15 - 20)
6. Transport Appeal Statistics (Pages 21 - 24)
7. Update on Village Green Issues (TO FOLLOW)
8. Update on Planning Enforcement Issues (Pages 25 - 44)
9. Other Items which the Chairman decides are Urgent
10. Motion to Exclude the Press and the Public

That under Section 100A of the Local Government Act 1972, the press and public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

EXEMPT ITEMS

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

11. Update on Planning Enforcement issues at Deal Field Shaw, Charing (Pages 45 - 48)

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

Monday, 19 January 2009

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

KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of A meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 18 September 2008.

PRESENT: Mr M J Harrison (Chairman) Mr A D Crowther (Vice-Chairman)
Mr T J Birkett, Mr A H T Bowles, Mr I S Chittenden, Mr L Christie, Mr J Curwood,
Mr J A Davies, Mr T Gates, Mr C Hart, Mr W A Hayton, Mr I T N Jones, DL,
Mr R E King (Substitute for Mr A R Bassam), Mr R A Pascoe, Mrs P A V Stockell
and Mr F Wood-Brignall

IN ATTENDANCE: Mrs S Thompson (Head of Planning Applications Group),
Mr R Gregory (Principal Planning Officer Enforcement), Miss M McNeir (Public
Rights Of Way Officer (Definition Team)) and Mr A Tait (Democratic Services
Officer)

ALSO PRESENT: Mr G Brown Audit Commission

UNRESTRICTED ITEMS

14. Minutes
(Item. 3)

- (1) The Minutes of the Regulation Committee Member Panel meeting of 15 September 2008 were tabled.
- (2) RESOLVED that the Minutes of the meetings of the Committee held on 20 May 2008 and of the Member Panels held on 10 June 2008, 2 September 2008 and 15 September 2008 are correctly recorded and that they be signed by the Chairman.

15. Meetings of the Committee in 2009
(Item. 4)

The Committee noted the following meeting dates in 2009:-

Tuesday, 27 January 2009;
Tuesday, 19 May 2009; and
Tuesday, 10 September 2009.

16. Commons Act 2006 - DEFRA Pilot Project
(Item. 5)

RESOLVED to note:-

- (a) the County Council's role and participation in the pilot implementation of Part 1 of the Commons Act 2006;
- (b) the additional responsibilities identified within the Commons Act 2006 and falling within the remit of the Committee; and
- (c) the further presentation to be given on this issue to Members of the Council on 27 October 2008.

17. Draft Procedures for Member Panels to consider Gating Orders.
(Item. 6)

RESOLVED that the draft Procedures be agreed as set out in the Appendix to these Minutes for use by Member Panels in determining Gating Order applications.

18. Update on Planning Enforcement Issues
(Item. 7)

RESOLVED to endorse the actions taken or contemplated on the respective cases set out in paragraphs 11 to 26 of the report and those contained within Appendices 1 to 3 on pages 27 to 44 of the agenda papers.

19. Update on Planning Enforcement issues at Four Gun Field, Upchurch
(Item. 8)

(1) The Head of Planning Applications Group reported the latest enforcement position concerning the Four Gun Field site, Upchurch.

(2) RESOLVED to endorse the strategy outlined in paragraphs 8 to 15 of the report.

20. Update on Planning Enforcement issues at Deal Field Shaw, Charing
(Item. 9)

(1) The Head of Planning Applications Group reported the latest enforcement position concerning Deal Field Shaw (Shaw Grange), Charing.

(2) RESOLVED to endorse the enforcement strategy outlined in paragraphs 5 to 7 of the report.

21. Update on Planning Enforcement issues at Riverfield Fish Farm, Staplehurst
(Item. 10)

(1) The Head of Planning Applications Group reported the County Council's role in the enforcement process at Riverfield Fish Farm, Staplehurst.

- (2) RESOLVED to endorse the enforcement stance outlined in paragraphs 4 to 17 of the report.

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REGULATION COMMITTEE MEMBER PANEL

MINUTES of A meeting of the Regulation Committee Member Panel held at Swale 3, Sessions House, County Hall, Maidstone on Friday, 31 October 2008.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr I S Chittenden, Mr I T N Jones, DL and Mrs P A V Stockell

ALSO PRESENT: Mr P M Hill, OBE

IN ATTENDANCE: Mr C Wade (PROW Team Manager (definition)), Miss M McNeir (Public Rights Of Way Officer (Definition Team)) and Ms S Coventry (Public Rights Of Way Officer (Definition))

UNRESTRICTED ITEMS

12. Application to register land known as "Coronation Field" and "the Village Green" at Wittersham" as a new Village Green.
(Item. 3)

- (1) A visit to the site had taken place prior to the meeting. It was attended by Members of the Panel; the applicant, Mrs M Lewis; and some 10 other members of the public.
- (2) Mr P M Hill was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.
- (3) Mrs H Lyon addressed the Panel as a supporter of the application. Mr J Toogood spoke in opposition. Mrs M Lewis spoke as the applicant.
- (4) RESOLVED to inform the applicant that the application to register the land known as "Coronation Field" and "the Village Green" at Wittersham has not been accepted.

Carried Unanimously

13. Application to divert part of Public Footpath MR493 at Ditton
(Item. 4)

- (1) A visit to the site had taken place prior to the meeting. It was attended by Members of the Committee and Mr A Riley from Aylesford Parish Council.
- (2) Mr A Riley addressed the Panel in opposition to the application.
- (3) RESOLVED that the applicant be informed that the application to divert part of Public Footpath MR493 has not been accepted on the grounds that to do so would diminish the public enjoyment of the path by virtue of the very close proximity to the M20 of the proposed alternative route and the loss of the view of the Mill Pond from the footbridge.

Carried Unanimously

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KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held at Medway Room, Sessions House, County Hall, Maidstone on Wednesday, 12 November 2008.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman),
Mr J A Davies and Mr S J G Koowaree

ALSO PRESENT: Mr M J Northey

IN ATTENDANCE: Mr C Wade (PROW Team Manager (definition)) and Miss M McNeir
(Public Rights Of Way Officer (Definition Team))

UNRESTRICTED ITEMS

14. Application to add two public footpaths at Grasmere Pastures, Whitstable to the Definite Map of Public Rights of Way
(Item 3)

(1) A visit to the site at Grasmere Pastures, Whitstable had taken place prior to the meeting. It was attended by all Members of the Panel; and some half dozen representatives of the Grasmere Pastures Residents' Action Group and members of the public.

(2) The Chairman informed the Panel meeting that the Claimed Public Footpaths lay within his constituency. He had, however, taken no part whatsoever in any previous discussion of the application.

(3) Correspondence from Bevan Brittan LLP on behalf of the landowners and from Chestfield Parish Council had previously been circulated to all Members of the Panel.

(4) Additional correspondence from Mr Jeremy Shannon from the Grasmere Pastures Residents' Action Group was tabled, together with a statement from Mr P Watkins of O W Presland Ltd.

(5) Mr P Watkins addressed the Panel on behalf of the landowner, O W Presland Ltd.

(6) RESOLVED to make a Definitive Map Modification Order to modify the Definitive Map of Public Rights of Way (and accompanying Statement) by adding two Public Footpaths over land known as Grasmere Pastures at Whitstable as shown in Appendix A to the report.

Carried Unanimously

15. Application to register land known as Barton Playing Field, Canterbury as a new Town Green
(Item 4)

- (1) A visit to the site at Barton Playing Field, Canterbury had taken place prior to the meeting. It was attended by all Members of the Panel; Dr S Bax, the applicant; representatives from the KCC Children, Families and Education, Barton Court School, Chaucer Technology College; and some half dozen members of the public.
- (2) Additional correspondence from Dr S Bax had been circulated to all Panel Members in advance of the meeting.
- (3) At the meeting, Ms L Alexander (KCC Children, Families and Education) addressed the Panel in opposition to the application. Dr S Bax spoke as the applicant. Mr B Slater from Barton Court School spoke on behalf of the landowners.
- (4) Mr M J Northey was present for this item pursuant pursuant to Committee Procedure Rule 2.24 and spoke.
- (5) RESOLVED to endorse the advice received from Counsel and that a non-statutory Public Inquiry be held into the case to clarify the issues.

Carried Unanimously

By: Mike Harrison – Chairman, Regulation Committee
Peter Sass – Head of Democratic Services and Local Leadership

To: Regulation Committee – 27 January 2009

Subject: PROPOSED AMENDMENT TO A REGULATION COMMITTEE
MEMBER PANEL PROCEDURE

Classification: Unrestricted

Summary: To propose a minor amendment to the Procedure for Reviews of the Regulatory Authority's decision with respect to the Registration of a Premises for the Solemnization of Marriages and the Registration of Civil Partnerships.

FOR DECISION

INTRODUCTION

1. The Regulation Committee agrees the procedures for its Member Panels. One of these is the Panel which considers an appeal by the applicant for, or the holder of an approval for a Premises for the Solemnization of Marriages and the Registration of Civil Partnerships (Marriage Premises). This can be either to review the original Panel's decision to refuse approval or to review the specific conditions attached to an approval.
2. The current procedure is attached as an **Appendix** to this report. It contains the following provision in paragraph 7(i):-

"The Applicant and the Director of Community Safety and Regulatory Services leave the room. A decision is reached by the Panel who may recall the parties to summarise the decision orally if it wishes. The full decision will be set out in writing to all parties by the Clerk. The decision can be: -....."

THE GROUNDS FOR AMENDMENT

3. The reasons for this particular provision are unclear. It has resulted in the two interested parties having to leave the room whilst other members of the public have stayed and witnessed the entire debate as well as its outcome. It is difficult to provide a convincing justification as to why this should be the case.
4. The Committee also needs to bear in mind that the procedure for considering the original application for an approval contains no provision for anyone to leave the room at any stage.

CONCLUSION

5. The need for a consistent approach, taken together with the lack of any compelling reason for the Applicant and Director to absent themselves, makes the case for the provision to be amended. For reasons of Natural Justice, this amendment will also need to ensure that neither of the two parties addresses the

Panel once they have both summed up. I would therefore recommend that the text set out in paragraph 2 of this report is amended as follows:-

“Following the summing up by the Applicant, a decision is reached by the Panel. No further representations may be made to the Panel at this Stage by either the Applicant or the Director of Community Safety and Regulatory Services. The full decision will be made in public and set out in writing to all parties by the Clerk. The decision can be:-”

RECOMMENDATION

6. I recommend that Paragraph 7 (i) of the Marriage Premises Review Procedure is amended as set out in Paragraph 5 of this report.

Andrew Tait
Democratic Services
Tel: 01622 694342

Background Documents: None

KENT COUNTY COUNCIL

REGULATION COMMITTEE

PROCEDURE FOR CONSIDERING A REQUEST FOR A REVIEW OF THE REGULATORY AUTHORITY'S DECISION WITH RESPECT TO THE REGISTRATATION OF A PREMISES FOR THE SOLEMNIZATION OF MARRIAGES AND THE REGISTRATION OF CIVIL PARTNERSHIPS

- 1) The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 permit the applicant, or the holder of an approval of a premise for the solemnization of marriages and the registration of civil partnerships, to request a review of the regulatory authority's decision with respect to the registration of that premise for the solemnization of marriages and the registration of civil partnerships.
- 2) An applicant may request a review in respect of a decision to:
 - (a) refuse an approval
 - (b) attach to an approval special conditions other than those specified in the Regulations.
- 3) A Holder of an approval may request a review in respect of a decision to:
 - (a) refuse to renew that approval
 - (b) attach to the renewal of that approval special conditions other than those specified in the Regulations
 - (c) revoke the approval otherwise than under Regulation 8(9) or 8 (10) of the Regulations.
- 4) The request for a review shall be made in writing to the Proper Officer for the Registration Service, setting out the grounds and the preferred outcome of the review. Except for requests to review a decision to revoke an approval, any such request must be accompanied by a fee of £400.
- 5) Except in the case of a review of a decision to revoke an approval, or where the decision on which the review is requested has been made by the Regulation Committee, the Proper Officer will refer the request to the Director of Community Safety and Regulatory Services, who shall consider whether the request can be acceded to in accordance with normal policies and practices. If so, (s)he may amend the conditions as requested by the applicant and reissue the licence.

- 6) If the Director of Community Safety and Regulatory Services can not deal with the request as provided for in paragraph 5 (s)he shall refer it to the Head of Democratic Services who shall arrange for it to be considered by a Regulation Committee Panel of Members. The following procedure applies:-
- (a) The Panel of Members will consist of 3 Conservative, 1 Labour and 1 Liberal Democrat Member of the Regulation Committee nominated by political group spokesmen. The Chairman of the Panel will normally be the Chairman or Vice-Chairman of the Regulation Committee. No Member of the Panel will have had any previous connection with the request or the original licence application.
 - (b) A Democratic Services Officer nominated by the Head of Democratic Services will clerk the Panel and arrange a date for a meeting of the Panel in consultation with the parties concerned, setting a deadline for any additional papers to be provided.
 - (c) At least 5 clear working days before the Panel meeting, the agenda papers are sent to the applicant, the Director of Community Safety and Regulatory Services and Panel Members.
- 7) The Panel will normally meet in public unless the Panel resolves to exclude the press and public under the provisions set out in Section 100A of the Local Government Act 1972. The meeting procedure is set out below:-
- (a) Introductions by the Chairman, including an explanation of the procedure to be followed.
 - (b) The Director of Community Safety and Regulatory Services (supported as (s)he deems appropriate) explains the County Council's grounds for refusal or the conditions imposed.
 - (c) The applicant and Panel Members ask questions of the Director of Community Safety and Regulatory Services.
 - (d) The applicant or his/her representative (with such witnesses as s(he) deems appropriate) explains the grounds for seeking a review and the preferred outcome of the review.
 - (e) The Director of Community Safety and Regulatory Service and the Panel Members ask questions of the applicant.

- (f) If the application under review has been the subject of a previous Member Panel, it may be appropriate for the Chairman of that Panel to be invited to attend, comment to the Panel and be asked questions.
- (g) When the Chairman is satisfied that all parties have completed their representations, the Director of Community Safety and Regulatory Services is invited to summarise the case for the Authority.
- (h) The Applicant is invited to sum up. (The Applicant has the final word).
- (i) The Applicant and Director of Community Safety and Regulatory Services leave the room. A decision is reached by the Panel who may recall the parties to summarise the decision orally if it wishes. The full decision will be set out in writing to all parties by the Clerk. The decision can be:-
 - (i) to confirm the County Council's decision;
 - (ii) to vary an original decision to grant or renew an approval, in particular by removing special conditions, or by attaching new or different special conditions;
 - (iii) to substitute a different decision, which may, where the original decision was to revoke an approval, be a decision that the approval should not be revoked but should be subject to new or different conditions than those which were previously attached to it.

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By: Head of Democratic Services and Local Leadership
To: Regulation Committee – 27 January 2009
Subject: TRANSPORT APPEALS PANEL – HOME TO SCHOOL
TRANSPORT APPEALS
Classification: Unrestricted

Summary: To propose procedures for the Transport Appeals Panel when considering home to school transport appeals.

INTRODUCTION

1. The County Council at its meeting on 26 May 2005 agreed that the Regulation Committee would consider appeals by pupils and parents against school-related decisions which are not considered by an external Appeal Committee including transport, education awards and religious education.

THE GROUNDS FOR THE PROPOSALS

2. At its meeting on 21 June 2005, the Regulation Committee delegated the responsibility of transport appeals to the Transport Appeals Panels. Every Panel must include at least one Member drawn from the Regulation Committee and must be chaired by a member of the Regulation Committee.
3. It has become apparent that the procedures relating to such appeals are vague and not documented. Proposed procedures are attached as an **Appendix** to this report.

CONCLUSION

4. The need for Panels to deal with home to school transport appeals consistently and fairly in the interest of natural justice has made it essential that they operate within agreed procedures.

RECOMMENDATION

5. I recommend that the Procedures as set out in the Appendix to this report are adopted for future use by the Transport Appeals Panels.

Geoff Rudd
Assistant Democratic Services Manager (Appeals)
Tel No: (01622) 694358
e-mail: geoffrey.rudd@kent.gov.uk

Background Information: *To be circulated at the meeting*

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KENT COUNTY COUNCIL

REGULATION COMMITTEE

PROCEDURE FOR CONSIDERING HOME TO SCHOOL TRANSPORT APPEALS

- 1) Parents and pupils are entitled to appeal against decisions by the Local Authority in respect of Home to School Transport.
- 2) The request for an appeal shall be made in writing to the Head of Democratic Services and Local Leadership or his nominated representative, setting out the grounds and the desired outcome of the appeal.
- 3) The Head of Democratic Services and Local Leadership shall arrange for the appeal to be considered by Transport Appeals Panel. The following procedure applies:-
 - (a) The Panel of Members will consist of 3 Conservative, 1 Labour and 1 Liberal Democrat. The Panel must be chaired by and include at least one other Member of the Regulation Committee. No Member of the Panel will have had any previous connection with the matter under consideration.
 - (b) A Democratic Services Officer nominated by the Head of Democratic Services and Local Leadership will clerk the Panel and arrange a date for a meeting of the Panel in consultation with the parties concerned, setting a deadline for any additional papers to be provided.
 - (c) At least 5 clear working days before the Panel meeting, the agenda papers are sent to the appellant, the nominated officer for the Head of Admissions and Transport (mainstream home-to-school transport) or the Head of Additional Educational Needs (if applicable) hereafter referred to as the presenting officer, and the Panel Members.
- 4) The Panel will normally meet under the provisions set out in Section 100A of the Local Government Act 1972, whereby the press and public (apart from the appellant) are excluded. The meeting procedure is set out below:-

- (a) Introductions by the Chairman, including an explanation of the procedure to be followed.
- (b) The presenting officer explains the reasons that have prevented the Local Authority from meeting the appellant's wishes up to this stage.
- (c) The appellant and Panel Members can ask questions of the presenting officer.
- (d) The appellant and/or his/her representative (who can be a Member of the County Council) explain the grounds for the appeal and its desired outcome.
- (e) The presenting officer and the Panel Members can ask questions of the appellant.
- (f) When the Chairman is satisfied that all parties have completed their representations, the presenting officer is invited to summarise the case for the Local Authority.
- (g) The appellant is invited to sum up, (the appellant has the final word).
- (i) The appellant and the presenting officer leave the room. A decision is reached by the Panel. This decision will be set out in writing to all parties by the Clerk, who will also set out the reasons for it.

REACHING A DECISION

- 1) In reaching its decision the Panel must have due regard to the Local Authority's policies in respect of free home to school transport. The Panel will need to satisfy itself that the policies have been correctly applied.
- 2) The Panel must then go on to look at the specific circumstances of the case to determine whether they are sufficiently strong enough to justify the Panel exercising its discretion to disregard the Local Authority's policies.
- 3) There is a responsibility on the Panel to consider the most cost effective and appropriate mode of home to school transport taking into account the family circumstances at the time of the appeal.

THE DECISION

- 1) The Panel may decide to uphold the appeal in all respects.

- 2) The Panel may decide to not uphold the appeal in any respect.
- 3) The Panel may decide to partially uphold the appeal. This can include meeting the appellants' wishes wholly or in part for a time-limited period. At the end of the time specified for the provision of home to school transport the Panel can review the circumstances of the case again. The Panel can also specify that additional information be made available at the review. This might include such things as up to date medical reports and school attendance records.

VARIATION TO THIS PROCEDURE IN RESPECT OF APPEALS FOR THE LOCAL EDUCATION AUTHORITY TO DESIGNATE A ROUTE FROM HOME TO SCHOOL AS HAZARDOUS.

- 1) For the purposes of considering an appeal that the nearest available route from home to school is hazardous *in itself*, the meeting will be open to the public, following the procedure set out above in all other respects.
- 2) The Appellant may also ask the Panel to consider his or her personal circumstances in the event that the Panel decides that the route is not hazardous *in itself*. This part of the appeal will be held under the provisions set out in Appendix 100A of the Local Government Act 1972, whereby the press and public (apart from the appellant) are excluded. The procedure set out above will be followed in all other respects.

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By: Head of Democratic Services

To: Regulation Committee – 27 January 2009

Subject: PRESENTATION ON HOME TO SCHOOL TRANSPORT
(INCLUDING HOME TO SCHOOL TRANSPORT STATISTICS)

Classification: Unrestricted

Summary: To provide Members with a brief overview on Home to School Transport Policy, and the role of the Transport Appeals Panel, including Home to School Transport appeal statistics for the period between 1 January 2008 and 31 December 2008 and for the corresponding period in 2007.

1. Introduction

The Chairman has requested that the Committee receive a brief overview on the Home to School Transport Policy, and the role of the Transport Appeals Panel. More information on this together with a presentation will be provided by Officers at the meeting.

2. Transport Appeal Statistics – 2008

(2.1) For the period between 1 January 2008 to 31 December 2008 a total of 115 Home-to-School Transport appeals were submitted to 31 Transport Appeal Panel meetings. 91 were successful, (79%) at least in part (eg, time-limited assistance).

(2.2) 36 of the appellants had Local Member representation at their appeals and 20 different Members sat on the Transport Appeal Panels.

3. Transport Appeal Statistics – 2007

(3.1) Corresponding figures for the same period in 2007 were 137 appeals to 30 Panels with 70 (51%) at least partly successful.

(3.2) 52 of the appellants had Local Member representation at their appeals and 17 different Members sat on the Transport Appeal Panels.

4. Statistic Details

(4.1) Details relating to the Admissions and Transport Home to School Transport appeals are set out in Appendix 1. Those submitted by the Additional Educational Needs Teams in respect of Statemented Pupils are shown in Appendix 2.

5. Costs

(5.1) Members will receive at the meeting information relating to the approximate total cost of mainstream transport for the year.

6. Recommendations

(6.1) Members are asked to note this report.

Geoff Rudd
Assistant Democratic Services Manager (Appeals)
Tel No: (01622) 694358
e-mail: geoffrey.rudd@kent.gov.uk

Background Information: *To be circulated at the meeting*

**MAINSTREAM HOME TO SCHOOL TRANSPORT APPEALS
(ADMISSIONS AND TRANSPORT)**

1 JANUARY 2007 - 31 DECEMBER 2007

Grounds for Appeal	Upheld	Not Upheld	Total	% Upheld
Denominational	2	2	4	50
Distance	8	11	19	42
Not Attending NAS	54	44	98	55
16+	0	4	4	0
Hazardous Routes	0	1	1	0
TOTALS	64	62	126	51

APPEALS BY AREA: WEST: 40 - MID: 50 - EAST: 36

1 JANUARY 2008 - 31 DECEMBER 2008

Grounds for Appeal	Upheld	Not Upheld	Total	% Upheld
Denominational	3	0	3	100
Distance	6	1	7	86
Not Attending NAS	71	18	89	80
16+	3	2	5	60
Hazardous Routes	0	1	1	0
TOTALS	83	22	105	79

APPEALS BY AREA: WEST: 35 - MID: 38 - EAST: 32

**STATEMENTED PUPILS HOME TO SCHOOL TRANSPORT APPEALS
(ADDITIONAL EDUCATION NEEDS)**

1 JANUARY 2007 - 31 DECEMBER 2007

Grounds for Appeal	Upheld	Not Upheld	Total	% Upheld
Denominational	0	0	0	0
Distance	0	2	2	0
Not Attending NAS	4	2	6	67
Other	2	1	3	67
Hazardous Routes	0	0	0	0
TOTALS	6	5	11	55

APPEALS BY AREA: WEST: 3 - MID: 3 - EAST: 5

1 JANUARY 2008 - 31 DECEMBER 2008

Grounds for Appeal	Upheld	Not Upheld	Total	% Upheld
Denominational	0	0	0	0
Distance	2	0	2	100
Not Attending NAS	5	2	7	71
Other	0	0	0	0
Hazardous Routes	1	0	1	100
TOTALS	8	2	10	80

APPEALS BY AREA: WEST: 0 - MID: 7 - EAST: 3

Update on Planning Enforcement Issues

Report by Head of Planning Applications Group to the Regulation Committee on 27th January 2008

Summary: Update for Members on planning enforcement matters.

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

Local Member: Given by case in Appendices 1 to 3

Unrestricted

Introduction

1. This report provides an update on enforcement and monitoring work carried out by the Planning Applications Group since the 18th September 2009 Regulation Committee.
2. Summary schedules of all current cases have been produced (see Appendices 1 to 3). The cases are organised by District and the local County Member(s) identified in each case. Members are already notified on any new County enforcement cases under the existing Enforcement Protocol arrangements. The summary tables cover unauthorised breaches of planning control and those occurring on permitted sites, whether minerals or waste related or those further connected with County Council developments.

Report Format

3. Cases have been taken from the appended schedules and expanded reports produced. These in turn are presented under the following categories:
 - Achievements / successes [including measurable progress on existing sites]
 - New cases, especially those requiring Member endorsement for action
 - Significant on-going cases
 - Other cases of interest and those requested by Members
4. Members may wish to have verbal updates at Committee on particular sites from the schedules, (ideally with prior notice) or reports returned to the next Meeting. The report continues to give details of site monitoring and progress on chargeable site monitoring arrangements for minerals development.

Meeting Enforcement Objectives

5. Planning enforcement is an important but discretionary service. The resources allocated have to be balanced against those directed to statutory services, in turn referenced to corporate BVPI targets. Efforts have been concentrated chiefly on defending formal actions that have previously been taken and have progressed or are likely to progress to planning inquiry. Resources have been focussed on 4 sites where formal enforcement action has been taken, 6 cases where investigations are underway and a further 7 cases have been satisfactorily progressed or resolved. Amongst monitoring visits on permitted sites there have been 12 chargeable visits. Significant time has been absorbed in servicing a recent and now adjourned public inquiry at Four Gun Field, Upchurch in Swale. The case has proved exceptionally demanding and has required the active and

Update on Planning Enforcement Issues

on-going involvement of Counsel.

6. Each case has to be considered on its own merits and as a discretionary function. Action should only be taken as a last resort and only where it is expedient to do so. Resources are targeted in accordance with the Council's Enforcement Protocol to those sites where the activities being carried out have the potential to create the greatest and potentially the most irreversible environmental damage. These cases are investigated as a priority.
7. The imperative in strategic enforcement action is to ensure that the breach and any further damage to the environment are stopped at the first opportunity. That is the first and overriding objective. The County Council has a notable track record in this regard. The next aim is to attempt to achieve restoration. That may take considerably longer, for two main reasons. Firstly, there is the need at any given point to switch resources from protracted restoration cases to the urgent protection of land from new contraveners.
8. The other reason is that we do not have immediate call on prosecution powers, despite repeated lobbying of Government. This is only available to us once earlier enforcement action has been exhausted and the breach still remains. Reluctant contraveners / landowners, with little funding, equipment or expertise have to be cajoled into restoring sites largely through 'out of court' means. Successes are achieved but the speed depends on the circumstances of the case, appeal turnaround times by the Planning Inspectorate and the workload and inclination of the Courts. Officers, especially in serious unauthorised cases have to sustain a high level of concentration and effort over extended periods of time. The length of time to achieve acceptable levels of final or even interim restoration and what those requirements might be will vary on a case by case basis.
9. The main objective in terms of restoration is to '*remedy the breach*'. In other words, to seek a return of the land to its original state. However, often there are highway limitations in seeking this remedy. More practically speaking we may only be able to '*alleviate the injury to amenity*'. In general, that involves correcting the breach as far, as is practicable without creating further environmental damage and harm to amenity. A balanced judgement is required on the individual circumstances of each case.

Achievements / Successes [including measurable progress on sites]

Roman Road, Dover (Members: Gordon Cowan & Bill Newman)

10. This case referred to us by Dover District Council concerns the unauthorised depositing of imported waste materials on agricultural land (see summary schedule 1, no. 3). The waste was in part surplus from a redevelopment of the landowner's local business. The remainder was from general sources.
11. I immediately required the imports to cease. Realising the level of control and severity of sanction available to the County Council, a negotiated solution was quickly agreed with the alleged contravener. An acceptable scheme of restoration, respecting adjoining contours and capable of being properly enforced has been submitted. This has been carried to near completion on a firm negotiated basis without the need for protracted

Update on Planning Enforcement Issues

formal action.

Warren Court Farm, Knockholt Road, Halstead (Member: Richard Parry)

12. This case was originally referred to us by Sevenoaks District Council. It concerns the alleged unauthorised depositing of waste materials on agricultural land (see summary schedule 1, no. 7). The waste materials were brought on site to develop a large screening earthbund. I immediately required the imports to cease. A negotiated settlement with the landowner (as opposed to formal action) has resulted in removal of the deposited waste stockpiles from the land.

Eaglesden Farm, Mill Street, Iden Green, Benenden (Member: Roger Manning)

13. This case involves the unauthorised depositing of waste materials into a small dry valley on agricultural land (see summary schedule 1, no. 16). The Environment Agency (EA) took the lead and secured a conviction under the Environmental Protection Act 1990. The landowner was fined £15,000 with £2,000 in costs. A subsequent appeal lodged by the landowner was dismissed and a further £1,500 costs were awarded to the EA.
14. No further waste imports have taken place on the site. The land has been shaped and contoured in keeping with its surroundings and has regenerated naturally. The landowner has confirmed in writing that no further waste materials will be imported or tipped on to the land. He appreciates that the consequences would be a further likely prosecution by the EA and action under planning enforcement powers.

New Cases, especially those requiring action/ Member support

Land to the north of Southern Way, Folkestone (Member: Roland Tolputt)

15. Shepway District Council have referred this new case to us, concerning the alleged unauthorised depositing of waste materials on land adjacent to the rail network formerly owned and used by KCC and Railtrack (see summary schedule 1, No. 10). The waste materials have allegedly been imported on to the site by a local skip hire business, significantly raising the levels of the land.
16. There are two separate private landowners involved. I have served a Planning Contravention Notice on both parties requiring them to submit information to me as to why this alleged unauthorised development has taken place without planning permission. My investigations are allied to those of the Environment Agency and Shepway District Council, whom have served a similar Notice on one of the landowners. I have met with the site operator and impressed upon him unequivocally that no further depositing of waste materials will be tolerated by this Authority. Indeed, investigations are continuing into whether quantities of materials on site should be removed.
17. I am in the process of evaluating the replies to the Planning Contravention Notice and exchanging information with other agencies. Once this has taken place I shall be in a better position to formulate an enforcement action plan. In that context, I seek support from Members for the issuing of a Temporary Stop Notice and / or the service of an Enforcement Notice, as required.

Update on Planning Enforcement Issues

Aylesford Metal Co. Ltd., Millhall, Aylesford (Member: Geoff Rowe)

18. A further new case, this time reported to us by Tonbridge & Malling Borough Council and local residents, involves a site with a 1971 Planning Permission for use as a Scrap yard. A confirmed 1972 Enforcement Notice also applies (see summary schedule 2, No. 7).
19. The main allegations concern working outside permitted hours and over-stacking of the stockpiles of scrap metals stored on site. It appears that the current business activities have outgrown the site's permitted use, now impinging on local residential amenity.
20. Meetings have been held with both the local residents and the site operator, who has informally agreed to resolve the breaches by 31 January 2009. As a contingency however, I am seeking the flexibility of Members support for the issuing of a Temporary Stop Notice and / or the service of an Enforcement Notice, as required.

Park House Farm, Bower Lane, Eynsford (Member: Roger Gough)

21. Sevenoaks District Council have reported this case to the County Council. It concerns the alleged unauthorised importation, sorting, storage and transfer of mixed waste materials on a farm located at Eynsford, in the Metropolitan Green Belt, Area of Outstanding Natural Beauty and Special Landscape Area (see summary schedule 1, No.8).
22. The amenity impact caused by the unauthorised waste-related activities, combined with traffic movements of large vehicles on the narrow rural network, has attracted complaints from local residents.
23. The site has been visited. The farm has recently been purchased and is being used as an outlet to facilitate a waste collection business operated by the landowners. Its catchment covers the London area. A barn is being used as an apparent unauthorised transfer station to import, sort, store and transfer mixed waste materials in the form of hardcore, wood, metal and plasterboard. The landowners have been advised to cease the activity immediately.
24. The site is also known to the Environment Agency who have issued similar advice. However, I shall be serving a Planning Contravention Notice on all relevant parties to gather information to enable me to formulate an enforcement strategy to deal with this alleged breach. An application for planning permission for a change of use from agriculture to waste sorting has been submitted to Sevenoaks District Council. I have confirmed with them that the County Council will assume jurisdiction and the application is to be passed to us. I have also requested from them a detailed planning and enforcement history of the site.
25. As the alleged breach may continue, I seek Members support for the issuing of a Temporary Stop Notice and / or the service of an Enforcement Notice.

Update on Planning Enforcement Issues

Significant on-going cases

Deal Field Shaw, Charing

26. This landfill site requiring restoration is the subject of an exempt report to these papers (Item 10); also see summaries under number 1 of Schedules / Appendices 1 and 2, respectively).

Four Gun Field, Otterham Quay Lane, Upchurch

27. I would direct Members to Schedule 1 (12) of these papers for a summary update. The Enforcement Notice served on alleged unauthorised waste management activities at this site is the subject of a current Public Inquiry, adjourned until 2 March 2009. No discussion can therefore take place on any aspects of the case. Any point made or comment passed would potentially become new material evidence at the re-convened hearing.
28. I should inform Members, that aside from this Inquiry procedure, the appellants legal representative has sought a ruling from the Information Commissioner on whether the County Council was right (under a request for information) to deny him access to Exempt reports concerning the case. I shall keep Members informed of this legal challenge to the very basis upon which we conduct our business at this Committee.

Other cases of interest and those requested by Members

29. I would further direct Members to Schedule 1 (2) of these papers concerning the support being sought for the contingency service of an Enforcement Notice at Church Lane, Sellindge and Schedule 1 (4) for a summary update on the Monk Lake case (formerly referred to 'Riverfield Fish Farm'), at Staplehurst, Maidstone.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

30. In addition to our general visits to sites as a result of planning application work, we also do routine visits specifically to formally monitor sites. Since the last Regulation Committee in September, we have made a further 12 chargeable monitoring visits to mineral and waste sites and 10 non chargeable visits to sites not falling within this regime.

Resolved or mainly resolved cases requiring monitoring

31. Alongside the chargeable monitoring regime there is also a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to reoccur. It is intended that cases in this category should continue to be removed from the reporting lists (now the appended schedules 1 to 3, to this and subsequent reports) on the understanding that officers will keep them under review. Any recurrence will be reported back under the *'new cases, especially those requiring Member endorsement for*

Update on Planning Enforcement Issues

action' section at the front of subsequent reports to Committee.

32. The running list of sites which fall within this category are being incorporated into an appropriate database, to be used as a monitoring checklist.

Working protocols with the Environment Agency

33. The Committee has previously endorsed the development of better working protocols between the County Council and the Environment Agency with regard to its enforcement work. Close dialogue has ensued on the basis of bi-monthly meetings to discuss cases and agree enforcement strategies.
34. A joint event recently organised by the EA and opened up to Kent's District Councils, explored the terms of the new Environmental Permitting regime (formerly Waste Management Site Licensing). The significant feature for this Authority is that the prior need for planning permission is built into the EA's new procedures, at least in the case of more substantial waste activities. This should go some way towards inhibiting unauthorised development in its early stages, offering more protection to the environment and local amenity.

Conclusion

35. Timely and decisive intervention since May 2008 has allowed further successes and measurable progress on a number of enforcement cases. The knowledge that the County Council will not hesitate from taking any necessary formal action and our appeal successes is a strong negotiating tool. It often helps to achieve results in its own right. 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. However, actions once taken invariably result in costly and time-consuming appeals and public inquiries. Those involve as at present, extensive work and a diversion of resources.

Recommendation

36. I RECOMMEND that MEMBERS:

- (i) ENDORSE the actions taken or contemplated on the respective cases set out in paragraphs 15 to 29 above and those contained within Schedules 1 to 3 of Appendices 1 to 3.

Case Officers: Robin Gregory / Alan Goodison

01622 221067 / 1065

Background Documents: see heading

Schedule 1: Contraventions on (part) unauthorised sites

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	Ashford DC3/AS/03/COMP/0090 Shaw Grange, Charing (Member: Richard King)	Multiple breaching of landfill permissions Enforcement Notices and High Court Injunctions	To prevent further breaching and secure restoration of the site.	The site has now been acquired as a means of directly addressing the enforcement issues on site.	This landfill site in need of restoration is the subject of an exempt report to these papers (see Item 10).
2	DC3/AS/08/COMP/0006 Church Lane, Sellindge (Member: Charles Findlay)	Alleged unauthorised composting activity at a rural location, involving the construction of a new access and hardsurface, receipt of two main streams of waste (sewage sludge and wood chippings), and their mixing and informal composting, before being deposited on adjoining land.	To investigate and see if the activity falls within the County Council's waste related remit.	Planning Contravention Notice served on 28 April 2008. This required the landowner to declare his position and to give details of the use. That prompted a site meeting and the grounds of a negotiated settlement.	The activity has ceased. A retrospective planning application for a composting use on the land with retention of the access and hard surfacing has been withdrawn. That was given the recommendation for refusal on need and policy grounds. Removal of all parts of the development are now required and contingency support is sought for the service of an Enforcement Notice.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
3	<p><u>Dover</u></p> <p>DC3/DO/O8/COMP/0007 Roman Road, Dover (Members: Gordon Cowan & Bill Newman)</p>	Unauthorised depositing of waste materials on private agricultural land	To investigate and see if the activity falls within the County Council's waste related remit.	<p>The tipping has been halted and restoration is in progress. A negotiated solution has been found. The submission of a scheme of restoration, respecting adjoining contours and capable of being enforced, has been submitted and vetted.</p>	<p>The restorative works were due for completion by 31 October 2008. However, due to inclement weather the deadline has been extended until 30 April 2009 to enable a quality finish to this visually significant site.</p>
4	<p><u>Maidstone</u></p> <p>DC3/MA/05/COMP/0010 Monk Lake (formerly known as Riverfield Fish Farm), Staplehurst (Member: Mrs Paulina Stockell)</p>	Alleged breaches of planning permission granted by Maidstone BC for a fish farm. There is concern at the quantities of waste materials entering the site	Maidstone BC has primary enforcement responsibility. It is being advised by specialist retained Counsel under the recommendation of County Officers.	<p>The EA has issued an Exemption from Site Licensing. Maidstone BC however has served an Enforcement Notice to arrest the use and secure restoration. That has been appealed. The means and timescale for determination is awaited.</p>	<p>KCC holds no immediate remit on available evidence. However, I have made myself available to the Borough Council for enforcement and technical advice.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
5	DC3/MA/04/COMP/0060 Tutsham Farm, West Farleigh (Member: Mrs Paulina Stockell)	Depositing of builders waste on the southern bank of the River Medway	Cessation of tipping and to secure restoration.	The EA holds the enforcement lead on this case given their waste, pollution control, river protection remit and waste removal powers. That includes the ability to trace the origin of the tipped material through transfer documentation.	The EA have all necessary powers to deal with the breach, including site clearance. KCC are in a supportive role. Members have previously authorised the service of an Enforcement Notice if needed and / or the seeking of an injunction, to further protect the landholding from any further deposits.
6	Sevenoaks DC3/SE/07/COMP/0014 Morley's Farm, Morley's Road, Sevenoaks (Member: Nick Chard)	Unauthorised waste recycling facility reported by the EA.	To investigate and see if the activity falls within the County Council's waste related remit	Long established use of minor waste recycling facility through hand sorting of waste materials, in part for agricultural purposes.	An invalid application for Lawful Use to retain the activity has been submitted to this Authority. However, potential re-location offers an alternative planning solution. The relative merits of each are being evaluated.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
7	DC3/SE/08/COMP/0010 Warren Court Farm, Knockholt Road, Halstead (Member: Richard Parry)	Unauthorised depositing of waste materials (including 'soils' and wood chipping) reported by Sevenoaks DC.	To secure a stop to the activities and restoration	Discussions with the landowner have resulted in agreement to cease further importation of waste materials and removal of the current waste stockpiles.	A negotiated settlement has resulted in satisfactory compliance by the deadline of 30 November 2008. Sevenoaks DC and the EA have been kept informed, with a view to supportive action under their own remits if necessary.
8	DC3/SE/09/COMP/0001 Park House Farm, Bower Lane, Eynsford (Member: Roger Gough)	Unauthorised waste transfer station including mixed waste materials.	To secure a stop to these waste-related activities within the enforcement remit of the County Council.	The landowner has been advised by this Authority and the EA to cease the unauthorised waste related activities.	A Planning Contravention Notice will be served on all relevant parties to gather in information to assist in formulating an enforcement action plan. In this context, Members support is sought for the issuing of a Temporary Stop Notice and / or Enforcement Notice, as required.

9	<p>Shepway</p> <p>SH/05/1425. A20 Scrapyard, Rear of Airport Café, Main Road, Sellindge (Member: Susan Carey)</p>	Storage and breaking of disused vehicles without planning permission	To establish the planning status of the activity. If deemed to be unlawful to ensure removal of the use and restoration of the site.	A Certificate of Lawful Use Application has been expected but has not materialised.	<p>I intend to conduct a full review of the case when time allows, including the likelihood of receiving a credible and supportable Lawful use application. I am concerned to ensure consistency with other enforcement cases. Members continuing support is sought for the serving of an Enforcement Notice, if required.</p>
10	<p>DC3/SH/08/COMP/0014 Land north of Southern Way, Folkestone (Member: Roland Tolpuitt)</p>	Unauthorised depositing of waste materials, including construction and demolition spoil has significantly raised the land formerly used and owned by KCC and Railtrack plc as reported by Shepway DC.	Cessation of tipping and to secure restoration.	<p>Enquiries and a site inspection established that the site was already under investigation by Shepway DC and the EA. Planning Contravention Notices have been served on both private landowners. Importation and depositing of waste materials has ceased.</p>	<p>Further investigations are taking place with Shepway DC and the EA. See paragraphs 15 to 17 in the main papers for further details.</p> <p>I now seek Members support for the serving of a Temporary Stop Notice and / or Enforcement Notice should any unauthorised waste depositing resume.</p>

11	<p>Swale</p> <p>DC3/SW/05/COMP/0016</p> <p>Woodgers Wharf, Upchurch</p> <p>(Member: Keith Ferrin)</p>	<p>Unauthorised use of marine wharf for screening and crushing of imported spoil and alleged related waste management breaches</p>	<p>To arrest the alleged breaches and return the site to its lawful wharf-related use</p>	<p>An Enforcement Notice has been served and upheld at appeal. No further importation and has occurred on site.</p>	<p>Restoration is required under the timescales set within the Enforcement Notice. I shall monitor the site accordingly.</p>
12	<p>DC3/SW/04/COMP/0059</p> <p>Four Gun Field, Upchurch</p> <p>(Member: Keith Ferrin)</p>	<p>Alleged and sporadic waste-activities on a former brickfield related site with an associated lawful use</p>	<p>To ensure that no waste-related use is carried out on site, particularly given its sensitivity close to housing</p>	<p>An Enforcement Notice has been served on the alleged waste-related breaches on site. The Notice has been appealed. A Public Inquiry was convened on 7 and 8 January 2009, and then adjourned to 2 March 2009. This is to allow further submissions by the Appellant and questioning by KCC and local residents.</p>	<p>Given that the Public Inquiry is adjourned but still in session, I am unable to discuss at this Meeting the issues arising at the hearing.</p> <p>I shall however report fully to the next Meeting.</p> <p>In the meanwhile, continued support is sought for any injunctive action that may prove necessary.</p>

13	DC3/SW/04/COMP/0049 Raspberry Hill Park, Farm, Iwade (Members: Brenda Simpson / Roger Truelove)	Unauthorised importation, burning and depositing of mixed construction spoil, stationing of mobile homes and haulage distribution use on the waste deposit	KCC and Swale BC's 3 Enforcement Notices were upheld on Appeal. They require all traces of the unauthorised uses to be removed from the site, within given timescales.	Compliance monitoring with the Enforcement Notice is required. There have been no further breaches on site.	The operators are currently in prison but the landowners have been pursued for removal of the extensive waste deposits and restoration. However, following the convictions of the site operators a Court Restraining Order has been served on the landowner to prevent any disposessions from the land. Counsel's advice is being sought on how to approach restoration in these circumstances.
14	DC3/SW/07/COMP/0004 Chapel Lane, Lower Halstow (Member: Keith Ferrin)	Unauthorised importation and depositing of waste	To secure removal of a required quantity of waste according to road and site conditions	A figure of 20 vehicle loads to remove has been agreed with the landowner.	The deadline for removal has not been met. The reasons given do not persuade me from the need for further but proportionate action. With Members support I shall continue with the help of the County Solicitor, to seek a viable alternative to the use of an Enforcement Notice.

15	<p>Thanet</p> <p>TH/06/729 Unit J1C and J7 Westwood Industrial Estate Margate (Member: Bill Hayton & John Fullarton)</p>	<p>The original site unit has temporary planning permission for a recycling centre. However, the operator has moved the business to a larger unit on the same industrial estate without planning permission.</p>	<p>Cessation of waste inputs and clearance of waste from the new site in absence of a valid planning permission.</p>	<p>This new alleged contravention has arisen from routine site monitoring.</p> <p>The operator and landowner have been informed of the alleged unauthorised activities.</p>	<p>Options are to vacate the new site and revert to the original permitted site or to seek retrospective planning permission at the larger unit.</p> <p>Discussions have taken place on the latter but no application has yet materialised. I therefore seek contingency support for the service of BCNs and / or an Enforcement Notice as required.</p>
16	<p>Tunbridge Wells</p> <p>DC3/TW/06/COMP/0011 Eaglesden Farm, Mill Street, Iden Green, Benenden (Member: Roger Manning)</p>	<p>Importation of waste spoil into a small valley</p>	<p>To ensure no further tipping and to arrive at the best form of restoration in the circumstances.</p>	<p>The EA has secured a conviction against the landowner in the Magistrates Court in the sum of £15,000 with £3,500 in costs.</p>	<p>No further waste depositing has occurred and the land has been shaped and contoured. Under consultation with the EA and KCC Highways it is considered the best solution to leave the site as it stands. With Members agreement I intend to remove this case from the schedules but maintain a monitoring presence.</p>

17	DC3/TW/06/COMP/28 Durrants Farm, Maidstone Road, Paddock Wood (Member: Alex King)	Unauthorised waste recycling facility reported by the EA.	To assist the EA in their enforcement lead.	Prosecuted by the EA. Site operator convicted in the Magistrates Court in April 2008. Fined £10,000 with £2,500 costs.	Sporadic and recent reports of further breaches have been received from the EA. I intend to conduct a case review to see if formal KCC intervention is required. In that event I seek Members continuing support for the service of an Enforcement Notice and Temporary Stop Notice, if required.
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Schedule 2: Alleged breaches on Permitted Minerals & Waste Sites

Appendix 2

	<u>Site & Case Reference</u>	<u>Details of Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	Ashford DC3/AS/03/COMP/0090 Shaw Grange, Charing (Member: Richard King)	Multiple breaching of landfill permissions, Enforcement Notices and High Court Injunctions (q.v. No.1, Schedule 1).	To prevent further breaching and secure restoration of the site.	The site has now been acquired as a means of directly addressing the enforcement issues on site.	This landfill site in need of restoration is the subject of an exempt report to these papers (see Item 10)
2	DC3/AS/04/COMP/0003 Ripley's Scrapyard, Tennyson Road (Member: George Koowaree)	Local complaints of noise and vibration.	To help improve the level of local amenity protection within the powers available.	Permission has been granted to further improve and rationalise the site layout and amenity safeguarding. The noise issue is being addressed, as the site is upgraded and by a team including KCC, ABC and the EA.	The site improvements are still taking place. Close liaison has been established between local residents, the operator and monitoring and enforcement bodies. The optimum level of amenity safeguarding is being sought, within the scope of available powers. No further noise complaints have been received.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
3	AS/94/1155 Hegdale Quarry, Challock (Member: Charles Findlay)	Phasing of extraction at the site has departed from the approved plan impacting on timescales for phased removal of historically tipped wastes in the valley adjoining the site. Unconnected materials have been separately imported to the site and an apparent independent contracting use has been introduced.	Removal of alien stockpiles from the site and any secondary planning use. With a return to proper phasing, with removal of the unauthorised tipped materials and attendant restoration.	These breaches have been indentified from a chargeable monitoring visit. A return visit is required to establish the current level of compliance.	This web of alleged contraventions on site is complex and demands close attention to detail. I intend to approach the breaches in the order given. To strengthen my enforcement stance I seek Members continued support for the serving of BCNs and / or an Enforcement Notice if as required.
4	Dartford DA/00/72 & DA/04/993 150a Lower Hythe Street, Dartford (Member: Tom Maddison)	Unauthorised waste-related extension to existing permitted waste transfer station into adjoining area	To pull back the extended use to the original footprint area and then attend to less serious operational breaches under the original waste transfer permission	First objective achieved.	Full compliance with the original permission will need to be periodically monitored. The EA have so far taken the lead in this respect. Continuing support for the serving of BCNs is needed, should that enforcement route prove necessary.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
5	Tonbridge & Malling DC3/TM/04/COMP/0019 Borough Green Sand Pit, Platt Industrial Estate, Borough Green (Member: Peter Lake)	Complaints of windblown sand, noise, extended hours of working and mud on the road	To ensure compliance with the relevant planning permission	Three planning applications pertaining to the site and in part covering these issues have a resolution to grant planning permission, subject to completion of a S106 Agreement.	The S106 Agreement has been concluded allowing release of the planning permissions. New and updated controls are now available. I therefore intend to remove the case from this schedule, subject to ongoing monitoring.
6	DC3/TM/03/COMP/0005 Addington Sandpit, Addington (Member: Sarah Hohler)	A series of technical breaches on site, including slope stability and delayed restoration in part of the site	For the alleged breaches to be urgently addressed, with comprehensive remedial plans submitted for prior approval	The required schemes have been submitted and approved under planning permission TM/07/2545	The means are now available under the latest planning permission to resolve all outstanding matters on site. I therefore propose to remove from these schedules and monitor accordingly.

7	<p>DC3/TM/08/COMP/0013</p> <p>Aylesford Metals Co. Ltd, Mill Hall, Aylesford</p> <p>(Member: Geoff Rowe)</p>	<p>Complaints from local residents of out of hours working and amenity impacts from the over stacking of scrap.</p> <p>The current uses on the site seemed to have intensified from the previous upsurge in scrap metal sales. However, the recent economic downturn has resulted in the over-stacking on site and related alleged breaches</p>	<p>To ensure compliance with the base planning permission and confirmed Enforcement Notice.</p>	<p>Meetings have been held with both local residents and the site operator to reach a negotiated settlement on the alleged breaches.</p>	<p>I am seeking Members support for the serving of BCNs; a potential prosecution under the existing Enforcement Notice or re-service, according to the legal advice now being sought. Further details are available under paragraphs 18 to 20 in the main papers</p>
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Schedule 3: Alleged breaches on Permitted County Council Developments

Appendix 3

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	Shepway SH/07/261 Lympne Primary School, Octavian Drive, Lympne (Member: Ms S Carey)	Roof and upper level design details not carried out fully in accordance with the planning permission.	To regularise the planning position.	An alternative design solution was granted at 13 May 2008 Planning Applications Committee.	The alternative design has since been implemented and the school completed for occupation in September 2008. I therefore intend to remove from these schedules.
2	Swale SW/02/221 Preston Depot, Canterbury Road, Faversham (Member: T.Gates)	Extension of site for waste aggregate recycling outside of the original permitted area	To regularise the position.	The content of a retrospective planning application to address (amongst other matters) the identified breach has been negotiated with KCC Highways.	The breach has been contained and a planning application is expected shortly, seeking to regularise the breach.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 11

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