



AGENDA

REGULATION COMMITTEE

Thursday, 18th September, 2008, at 10.00 am Ask for: **Andrew Tait**
Council Chamber, Sessions House, County Hall, Maidstone 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. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes (Pages 1 - 8)
 - (a) Committee: 20 May 2008
 - (b) Member Panels: 10 June 2008
2 September 2008
4. Meetings of the Committee in 2009
 - Tuesday, 27 January 2009 (changed from 21 January)
 - Tuesday, 19 May 2009
 - Thursday, 10 September 2009
5. Commons Act 2006 - DEFRA Pilot Project (Pages 9 - 16)
6. Draft Procedures for Member Panels to consider Gating Orders. (Pages 17 - 20)
7. Update on Planning Enforcement Issues (Pages 21 - 46)
8. Update on Planning Enforcement issues at Four Gun Field, Upchurch (Pages 47 - 50)
9. Update on Planning Enforcement issues at Deal Field Shaw, Charing (Pages 51 - 54)
10. Update on Planning Enforcement issues at Riverfield Fish Farm, Staplehurst (Pages 55 - 58)

Peter Sass
Head of Democratic Services and Local Leadership

(01622) 694002

Wednesday, 10 September 2008

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 at Sessions House, County Hall, Maidstone on Tuesday, 20 May 2008.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr T J Birkett, Mr C J Capon, 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 and Mr R E King (substitute for Mr A R Bassam).

IN ATTENDANCE: The Head of Planning Applications Group, Mrs S Thompson (with Mr R Gregory); and the Democratic Services Officer, Mr A Tait.

UNRESTRICTED ITEMS

9. Membership

The Committee noted the appointment of Mr W A Hayton in place of Mr J B O Fullarton.

10. Minutes

RESOLVED that the Minutes of the meetings of the Committee held on 22 January 2008 and of the Member Panels held on 11 February 2008, 21 February 2008, 7 April 2008 and 11 April 2008 are correctly recorded and that they be signed by the Chairman.

**11. Update on Planning Enforcement issues
(Item 8)**

RESOLVED to:-

- (a) endorse the actions taken or contemplated on the respective cases set out in paragraphs 14 to 42 of the report and those contained within Schedules 1 to 3 of Appendices 1 to 3 on pages 4:11 to 4:29 of the report; and
- (b) note the independent publicity given to the County Council's enforcement work in the national professional journal "Waste Planning" in Appendix 4 of the report.

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 5 and 6 of Part 1 of Schedule 12A of the Act)

12. Enforcement Strategy for Four Gun Field, Otterham Quay Lane, Upchurch
(Item 7 – Report by Head of Planning Applications Group)

- (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 6 to 16 of the report.

13. Update on Planning Enforcement Issues at Deal Field Shaw, Charing
(Item 8- Report by Head of Planning Applications Group)

- (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 6 to 14 of the report.

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 10 June 2008.

PRESENT: Mr A D Crowther (Vice-Chairman in the Chair), Mr I S Chittenden, Mr J Curwood and Mr R A Pascoe.

ALSO PRESENT: Mr M J Harrison.

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

UNRESTRICTED ITEMS

9. Application to downgrade part of Restricted Byway CW38 (known as Grasmere Road) at Chestfield to Public Footpath status.

(Item 3 – Report by Director of Environment and Waste)

- (1) A visit to the site at Grasmere Road, Chestfield had taken place prior to the meeting. It was attended by all Members of the Panel; the local Members, Mr M C Dance and Mr M J Harrison; the applicant, Mrs A Johnson; and some 12 members of the public.
- (2) Additional correspondence from Ms J Newell in support of the application had previously been circulated, together with correspondence from Colonel T Collins.
- (3) The Principal Case Officer explained the reasons for the recommendation contained in the report. Mrs A Johnson, supported by Mr S Barrow and Ms J Newell gave their grounds for asking the Panel to reject the recommendation. These included that the *Bakewell* case referred to in paragraph 9 of the report had been superseded by the Natural Environment and Rural Communities Act 2006; that the Trevelyan case described in paragraph 34 of the report did not apply; and other Roads Used as Public Paths (RUPPs) in the area had been downgraded to Footpath status.
- (4) Mr R A Pascoe moved, seconded by Mr J Curwood that the recommendations of the Director of Environment and Waste set out in Paragraph 45 of the report be agreed.
Carried with no opposition.
- (5) RESOLVED to decline to make an Order to modify the Definitive Map and Statement by downgrading part of Restricted Byway CW38 (known as Grasmere Road) at Whitstable and Chestfield to Public Footpath status.

This page is intentionally left blank

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 2 September 2008.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr I S Chittenden and Dr M R Eddy.

ALSO PRESENT: Mr R A Marsh.

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

UNRESTRICTED ITEMS

10. Application to register land at Cherry Orchard Playing Field, Herne as a Village Green.

(Item 3 – Report by Director of Environment and Waste)

Mr R A Marsh was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.

- (1) A visit to the site at Cherry Orchard Playing Field, Herne had taken place prior to the meeting. It was attended by all Members of the Panel; the applicant, Mrs R Bowley; and 4 other members of the public.
- (2) Additional correspondence from Herne and Broomfield Parish Council (in opposition) and from the Open Spaces Society (in support) was tabled.
- (3) The Principal Case Officer explained the reasons for the recommendation contained in the report. Mr E Bowley on behalf of Mrs Bowley (the applicant), supported by Mr J Moore spoke in support of the application. Mrs Janet Taylor, Deputy Head of Legal Services at Canterbury City Council spoke as the landowner.
- (4) The Chairman moved that the recommendations of the Director of Environment and Waste set out in Paragraph 28 of the report be agreed.
Carried unanimously.
- (5) RESOLVED to endorse the advice received from Counsel that a non-statutory Public Inquiry be held into the case to clarify the issues.

This page is intentionally left blank

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 15 September 2008.

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

ALSO PRESENT: Mr P M Hill.

OFFICERS: The PROW Service Delivery Manage, Mr G Rusling and the Democratic Services Officer, Mr A Tait.

UNRESTRICTED ITEMS

11. Proposed Gating Order at Footpath to the rear of Henley Fields, Tenterden.

(Item 3 – Report by Director of Environment and Waste)

Mr P M Hill was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.

- (1) A visit to the Footpath to the rear of Henley Fields, Tenterden had taken place prior to the meeting. It was attended by all Members of the Panel; WP Sergeant R McNeil; Cllr P Carley from Tenterden TC and 4 other members of the public. The Panel Members walked the entire route of the footpath (meeting other local residents in the process), inspected the sites of the four proposed gates, walked the alternative route to the A28 Ashford Road and listened to representations from those present.
- (2) A map showing the location of the proposed gates was tabled together with the Notice and draft Gating Order.
- (3) A supplementary letter was received from Mrs R Chapman withdrawing her objection to the proposal.
- (4) The Chairman moved that the recommendations of the Director of Environment and Waste set out in Paragraph 4 of the report be agreed subject to an Informative to Homewood School explaining that the success of the Gating Order would be dependent on the School erecting suitable fencing on its boundary with the footpath.
Carried unanimously.
- (5) RESOLVED that:-
 - (a) the proposed Gating Order be made and reviewed in two years, at which time it will be revoked, amended or continued as appropriate; and
 - (b) Homewood School be informed of the Committee's view that the success of the Gating Order will be dependent on the School erecting suitable fencing on its boundary with the footpath.

This page is intentionally left blank

From: Linda Davies - Divisional Director of Environment and Waste
To: Regulation Committee 18th September 2008
Subject: The Commons Act 2006 – DEFRA Pilot Project
Classification: Unrestricted

Summary: To advise members of the County Council's role and participation in a pilot implementation of new provisions set out within Part I of the Commons Act 2006 and to seek authority for the Regulation Committee to determine the additional functions required as a result of the coming into effect of the Commons Act 2006.

Recommendation: That the County Council's role and participation in the pilot implementation of Part I of the Commons Act 2006 be noted and that the additional responsibilities identified within the Commons Act 2006 are determined by the Regulation Committee.

Introduction

The law of Common Land and Village Greens is rooted deep in customary law and dates back to medieval times. During the nineteenth century, increasing awareness and recognition of the importance of such land to local communities as places for recreation gave rise to increasing statutory protection with the passing of the Inclosure Act 1857 and the Commons Act 1899.

In 1958, the Royal Commission produced a report on Common Land which made important recommendations, in particular in relation to the creation of a statutory register of Common Land and in 1965 a new Act was passed to give effect to some of these recommendations.

The Commons Registration Act 1965 gave all local authorities a duty, for the first time, of registering all Common Land and Village Greens within their administrative area, as well as details of ownership and any rights of common that existed (e.g. a right to graze animals). However, the task of establishing registers proved to be complex, lengthy and costly, and the 1965 Act was flawed in many ways. For example, some land provisionally registered under the Act was wrongly struck out, whilst other Common Land was overlooked and never registered, and many Village Greens became wrongly registered as Common Land (and vice versa).

Another major flaw was that the scope for correcting errors was very limited and, as a result, many events (such as changes of address) which affected entries in the Registers of Common Land or Village Greens have not been registered and the Registers have, in consequence, become significantly out of date since they were first compiled in 1970.

The Commons Act 2006

The recent 2006 Act is designed to replace and significantly improve the now much out-dated 1965 legislation. The most voiced criticism of the current system is that it has a more “Domesday Book” approach; it is not a “living” record, and as the years go by the Registers are getting increasingly out of date.

The Registers were intended to provide conclusive evidence of the facts shown as at the date of registration. Yet, the original registration took place in the late 1960s and early 1970s and, accordingly, many entries in the Registers are only conclusive of what the legal position was more than 40 years ago. Since first registration many things might have happened without being recorded in the Registers. For example rights of common might have been transferred, apportioned or extinguished without any record in the Registers. Some Common Land may have ceased to be Common and other Common Land may have come into existence without any mention in the Registers.

The Commons Act seeks to bring the registration of Common Land and Village Greens into the 21st century by making a swathe of individual reforms to make the registers more useful. These include:

- Abolishing the requirement for ownership registration (a function now covered by the Land Registry)
- Reforming the substantive law of Commons
- Attaching new consequences to registration and non-registration
- Updating the registers
- Correcting existing mistakes
- Provision for registers to be held electronically

The net effect of these reforms is that the Registers will be much more useful in showing the current legal position in relation to information held by the County Council within these Registers.

The County Council’s role as a ‘Pilot Authority’

In order to ensure that Government Ministers can be kept fully informed in relation to any costs or problems associated with a future national roll out of this new legislation, DEFRA invited applications from English Local Authorities to participate in a pilot project.

Kent County Council is one of seven Commons Registration Authorities that have been invited to participate. The other six authorities are listed at Appendix A. The result of this is that relevant provisions contained within Part I of the 2006 Act will be brought into force in these seven registration areas at least twelve months before the rest of the country. The Secretary of State made *The Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008* on the 21st of July 2008 to put this into effect.

In terms of budgetary provision members should note that the County Council has been notified of an intention by DEFRA to fund the County Councils costs in participating in the pilot project. An allocation of £19.1k has been agreed for the initial financial year (i.e. the last six months of the 2008/2009 financial year and the first six months of the 2009/2010). Provision has also been made within the Act for the County Council to charge fees in respect of certain applications. Currently these are set as default fees by DEFRA and

have been deliberately set at a low level, but it is my intention to increase these fees to reflect actual costs within this authority (although it should be noted the fee per application cannot exceed £1000).

New functions for Regulation Committee

The Regulation Committee's responsibilities in relation to this area of work are set out in paragraph 2.5 of Appendix 2 Part 2 of the Constitution. The Committee currently considers and determines applications for the registration of new Village Greens and the variation of Rights of Common (where any party raises objection).

However, the Committee may well also have to take decisions on other aspects of the 2006 Act. For example, the County Council may well find itself in the position of having to amend the Registers to reflect unrecorded rights, or to amend or extinguish rights already shown. Currently, this Committee does not have the necessary authority to undertake such decisions and therefore I would recommend that further action be initiated by Officers to ensure this authority is in place prior to the introduction of the Act in this County on the 1st October 2008. A more comprehensive list of the required functions is set out at Appendix B.

Referral to the Planning Inspectorate

The Secretary of State has decided that certain applications and proposals will have to be determined by the Planning Inspectorate. The County Council will still resolve and determine the majority of Town and Village Green applications. However, in cases where there is a conflict of interest, perhaps for example in respect of land owned by the County Council, this type of matter will, from the 1st October 2008, have to be passed to the Planning Inspectorate for determination.

Other issues which have to be determined by the Inspectorate are applications and proposals which affect the extent of any land registered as common land or green, or what can be done by virtue of a Right of Common. Likewise, any applications and proposals to register land as waste land to the manor, to transfer land from the Register of Village Greens to the Register of Common Land or to deregister certain types of wrongly registered land.

Additional Briefing

It is unfortunate that neither Officer with responsibility for this issue is available to present this report. However, following discussion with the Chairman it has been decided that a further presentation will be given to Members on the 27th October 2008 at which there will be a far more detailed explanation of the new procedures and opportunity for questions on any issues raised by this report. Further notification of this meeting will be provided in due course.

County Council Approval

I will ensure that the delegation of these new responsibilities to the Regulation Committee will be reported to a future meeting of the County Council for appropriate approval.

Recommendation

That the County Council's role and participation in the pilot implementation of Part I of the Commons Act 2006 be noted and that the additional responsibilities identified within the Commons Act 2006 are determined by the Regulation Committee.

Background Documents

Commons Registration (England) Regulations 2008

The Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008

'The Commons Act 2006: Guidance to commons registration authorities in the pilot implementation areas. July 2008

Appendix A- List of participating Commons Registration Authorities DEFRA Pilot Project

Appendix B- List of functions set out in the Commons Act 2006

Contact:

*Chris Wade
Public Rights of Way Principal Case Officer
Countryside Access Service
Environment and Regeneration Directorate
Tel. No: (01622 221511)
Email: chris.wade@kent.gov.uk*

Appendix A

Commons Act 2006-Pilot Authorities

Blackburn with Darwen Borough Council

Cornwall County Council

Devon County Council

County of Herefordshire County Council

Hertfordshire County Council

Kent County Council

Lancashire County Council

This page is intentionally left blank

Appendix B

Commons Act 2006

Transitional period for updating registers

There are two elements to the task of updating registers. Under Schedule 2, registration authorities can rectify mistakes made when land was registered under the 1965 Act (and in some cases, add land to the register which was mistakenly excluded from registration under the 1965 Act). Secondly, under Schedule 3, registration authorities may update the registers to reflect events that have happened since the introduction of the 1965 Act but which had not been registered as follows:

- Creation of a right of Common
- Variation of a right of Common
- Apportionment of a right of Common
- Severance of a right of Common
- Transfer of rights held in gross
- Surrender or extinguishment of a right of Common
- Statutory dispositions

This page is intentionally left blank

By: Head of Democratic Services
To: Regulation Committee – 18 September 2008
Subject: DRAFT PROCEDURES FOR MEMBER PANELS TO
CONSIDER GATING ORDERS
Classification: Unrestricted

Summary: To propose draft procedures for use in the consideration by Member Panels for the making, variation or revocation of Gating Orders.

1. Introduction

The County Council agreed on 19 June 2008 that Sub-Committees (Member Panels) of the Regulation Committee could consider the making, variation or revocation of Gating Orders. In line with its usual practice in relation to Village Green, Public Rights of Way and Marriage Premises applications, the Committee needs to agree procedures for use by these Member Panels.

2. The Purpose of the Procedures

(2.1) The principal purpose of the procedures for Member Panel meetings is to enable members of the public to address the meetings whilst agreeing rules which govern the process. These rules need to have regard to the principles of decision-making in the County Council's Constitution; namely:

- (a) action proportionate to the desired outcome;
- (b) due consultation and the taking of professional advice from the officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) the explanation of the options considered and the giving of reasons for decisions.

3. The Draft Procedures

(3.1) The proposed draft Procedures are attached at Appendix 1. They are modelled on and are broadly similar to those agreed for the other functions of the Committee where the use of Panels is permitted.

4. Recommendations

(4.1) Members are recommended to agree the draft Procedures set out in Appendix 1 for use by Member Panels in determining Gating Order applications.

Andrew Tait
Democratic Services Officer
Tel No: (01622) 694342
e-mail: andrew.tait@kent.gov.uk

Background Papers: *None*

KENT COUNTY COUNCIL

REGULATION COMMITTEE

DRAFT PROCEDURE FOR CONSIDERING APPLICATIONS TO MAKE, VARY OR REVOKE GATING ORDERS WHERE SUBSTANTIVE OBJECTION HAS BEEN RAISED OR A POLITICAL PARTY OR THE LOCAL MEMBER REQUESTS

- 1) The decision as to whether or not to make, vary or revoke a gating order on or adjacent to a highway in order to prevent crime or antisocial behaviour is taken by Members of a Panel of the Regulation Committee.
- 2) At any such meeting the Council will permit members of the public and other interested parties to speak to the Panel Members.
- 3) The purpose of allowing people to speak is to enable them to add any information that they feel may be missing from the Director of Environment and Waste's report, or which they feel has been insufficiently emphasized in it. They will not normally be allowed representation by solicitors or other professional agents.
- 4) If a Panel of Members needs to consider an application, the following procedure applies:-
 - (a) A Panel of Members is selected, consisting of 3 Conservative, 1 Labour and 1 Liberal Democrat Member of the Regulation Committee (this confirms proportionally to the overall number of political Group Members in the Council as a whole). The Chairman of the Panel will normally be the Chairman or Vice-Chairman of the Regulation Committee.
 - (b) The Clerk of the Panel writes to all parties who have previously corresponded on the application 5 clear working days before the meeting, enclosing the report which the Panel will be considering and advising them that if they wish to speak about the application they **MUST** contact as follows:

DAY OF PANEL MEETING	Contact Clerk by 12.00 Noon on the preceding
Monday	Thursday
Tuesday	Friday
Wednesday	Monday
Thursday	Tuesday
Friday	Wednesday

- (c) 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. Normally, the Panel will listen to representations from up to four parties. These **WILL** include:-

- one local Parish or Town Council representative;
- three individuals or group representatives;

Where there are more than four parties who wish to speak, the Clerk will encourage them to agree amongst themselves as to who can best represent their point of view. If no such agreement proves possible, the Chairman of the Panel will decide which members of the public may speak.

- (d) At the Panel meeting, the Chairman will explain the procedure for the meeting and then ask the Director of Environment and Waste or her representative to introduce the report and explain the reasons for its recommendations.
- (e) Each speaker will be allowed up to five minutes to address the Panel about the application. Speakers should bear in mind the following:-
 - (i) The Panel will listen to what each speaker says but will not debate the merits of their opinions with them;
 - (ii) The Chairman will inform the speakers when they have one minute left to speak and when their time is over;
 - (iii) The speakers should concentrate on explaining the points they have already made in writing. They should not attempt to surprise the Panel with new information. Any such information should already have been given to the Director of Environment and Waste in time for it to have been evaluated professionally.
- (f) The Panel will then discuss the report and its recommendations and will also offer the local Member the opportunity to make representations. The application will then be determined.

Update on Planning Enforcement Issues

Report by Head of Planning Applications Group to the Regulation Committee on 18th September 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 20th May 2008 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 overall aim is for selective cases to be drawn from the set of schedules for longer reports to be produced, in a more targeted way. That has already helped in managing officer time more efficiently and should continue to allow more time at Committee for discussion of enforcement trends and themes and our work with other agencies. Planning enforcement is of course one part of a wider public enforcement effort.
5. The report continues to give details of site monitoring and progress on chargeable site monitoring arrangements for minerals development.

Meeting Enforcement Objectives

6. As a discretionary service, albeit a very important one, the resources available to the service have to be balanced against those directed to support statutory requirements and to meet corporate BVPI targets. Efforts have been concentrated chiefly on defending formal actions that have previously been taken and have progressed or are

Update on Planning Enforcement Issues

likely to progress to planning inquiry. Resources have been focussed on 5 sites where formal enforcement action has been taken, 5 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 13 chargeable visits. Significant time has been absorbed in servicing a recent public inquiry at Woodgers Wharf, Upchurch in Swale and in preparing for the next public inquiry concerning Four Gun Field nearby. This type and calibre of work requires a great deal of legal interchange with Counsel across a series of complex cases. That aspect involves very time-consuming and intensive work.

7. 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.
8. 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. That is precisely the position with the two cases in Swale, mentioned under paragraph 6 above.
9. The other reason is that we do not have immediate call on prosecution powers, despite repeatedly 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.
10. 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 and 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 set of circumstances of each case.

Update on Planning Enforcement Issues**Achievements / Successes [including measurable progress on sites]****Roman Road, Dover (Member: Gordon Cowan & Bill Newman)**

11. 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.7). The waste was in part surplus from a redevelopment of the landowner's local business. The remainder was from general sources.
12. 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. Active restoration is proceeding on a firm negotiated basis without the need for protracted formal action.

Woodgers Wharf, Upchurch (Local Member: Keith Ferrin)

13. This site and waste management activity concerns the use of land connected to a marine wharf at Otterham Quay, Upchurch for the screening and crushing of largely inert materials. The planning history of the wharf is complex. Considerable efforts have been made to resolve this case and to ensure that all relevant parties, the local community and their representatives have been kept informed of progress. To that end, an Enforcement Notice was served to help arrest the alleged breaches on site and as a means to secure restoration.
14. The operator has left the scene and waste-related activities and associated traffic have ceased. That has been an achievement in its own right. The landowner however appealed the Enforcement Notice and a Public Inquiry was heard on 22 – 23 July 2008. I am pleased to announce that the Enforcement Notice was upheld. Some points, which were agreed between the parties at the Inquiry, have been included to ensure legal precision. The Inspector has also made an attempt to clarify the scope and meaning of the 'wharf-related' lawful use, as originally granted by Swale Borough Council.
15. No more overt waste related activities may be carried out and the stockpile of concrete beams on site will have to be removed as they stand, without being crushed. The stockpiles of soils may be retained on site to alleviate the amenity impact to local residents from the extra lorry movements taking materials off site. There is probably scope for some of the material to be used in restoring the site.
16. This represents a significant appeal win, against the odds, as the Borough Council had previously confirmed in writing to the appellant that he could in essence carry out elements of the development eventually enforced against. An exemption from site licensing issued by the Environment Agency was also a constraining and complicating factor. The appellant drew heavily on both these concessions at the Public Inquiry.
17. The appellant has been given 12 months to remove the excessive stockpile of concrete beams on site and to otherwise restore the site. The site may then only operate within the scope of the original lawful use on site as a marine-contracting yard.

Update on Planning Enforcement Issues

18. I shall need to absorb the full content and nuances within the appeal decision and have a de-briefing session with Counsel. I shall therefore reserve giving a full report until the next Meeting. I should also be able to report on any progress made towards restoration, at the same time.

Lympne Primary School, Octavian Drive, Lympne (Local Member: Ms S. Carey)

19. Lympne Primary School is located to the south of the village of Lympne, accessed via Octavian Drive. The whole of the school site is within the Kent Downs Area of Outstanding Natural Beauty and a Special Landscape Area.
20. Since this case was reported the matter has been significantly progressed and no longer constitutes any planning breach. In particular, Lympne School burnt down in September 2006 and the children have since been schooled in Folkestone on a temporary basis. Rebuilding of the school, incorporating improved design aspects such as better natural lighting, ventilation and fire spread attenuation, was progressed urgently but resulted in a hastily presented design incapable of precise delivery. Complaints from neighbouring residents alerted the Planning Authority to the fact that the replacement school buildings were being constructed on the basis of architect's drawings which did not fully accord with the planning approved drawings, resulting in a higher roofline than was originally envisaged. Although, only slightly higher the extra roof height resulted in a clumsy looking roofscape and an overbearing impact for the nearest residents.
21. Of the two alternative design solutions presented to the Planning Applications Committee in May 2008, the first was refused permission and the second was permitted, compelling the developers to lower part of the steel framing and adopt a compromise roofline, more in keeping with the original design. Although there was a delay in construction of the scheme as a result of this decision, the development has now been completed for occupation with the children returning after a two year hiatus to their original school site, albeit in new buildings, on 8 September. Under the circumstances, I see no need for any further action over this case as far as the Regulation Committee's interests are concerned.
22. In addition to the above cases, I would also refer Members to the measured successes at Pilgrims Way / Toll Lane, Charing case, being number 2 of Schedule 1 and Church Lane, Sellindge, number 3 of the same schedule.

New Cases, especially those requiring action/ Member support

23. Under this category, there are three new or resumed cases listed in the appended schedules i.e. Schedule 1, no 8 - Riverfield Farm, Staplehurst (see Exempt Item 12 of these papers) and 20 – Unit JIC and J7 Westwood Industrial Estate Margate; and Schedule 2, no 4 – Hegdale Quarry, Challock.

Update on Planning Enforcement Issues

Significant on-going cases

Woodgers Wharf, Upchurch (Local Member: Keith Ferrin)

24. This alleged waste management activity at Upchurch is reported under paragraphs 13 to 18 in the 'Achievements' section above.

Deal Field Shaw, Charing

25. This landfill site requiring restoration is the subject of an exempt report to these papers (Item 11); also see summaries under number 1 of Schedules / Appendices 1 and 2, respectively).

Other cases of interest and those requested by Members

26. I would direct Members to Exempt Item 12, which reports on the Riverfield 'fish farm' case, at Staplehurst, Maidstone.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

27. Since 10th May 2008, and up until 20th August 2008 routine formal chargeable and non chargeable visits have continued, despite competing demands on Case Officer resource. There have been 14 visits to non-chargeable sites and 13 visits to chargeable sites. Informal monitoring (i.e. monitoring that takes place as a result of and during the course of other work such as pre-application advice and application processing) has continued as usual.

Resolved or mainly resolved cases requiring monitoring

28. 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 action*' section at the front of subsequent reports to Committee according to the new revised format.
29. The running list of sites which fall within this category are currently being incorporated into an appropriate database, to be used as a monitoring checklist.

Update on Planning Enforcement Issues

Working protocols with the Environment Agency

30. 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.
31. In place of the 21st August liaison meeting, senior managers from the Environment Agency met with the Chairmen of this Committee and the Planning Applications Committee and representative officer. The discussion was wide-ranging and constructive. It was acknowledged from the outset that modern waste enforcement was becoming an increasing challenge for both parties, along with the relevant District Council. A 'triangle' of responsibility was apparent, comprising the efforts and actions of all three bodies.
32. The management of public expectation given the level of challenge faced and the constraints and boundaries to available powers was also noted and discussed. Members, particularly those with County and District constituencies have an important role to play in this regard and need to be informed of cases and kept properly up to date. The noting of Members in the schedules attached to this report is an example of how that is being done. Including Members in this way changes the 'triangle' in effect to a 'square' with the four corners representing the four key stakeholders involved in public enforcement matters. It is the flow of timely information and the case conferencing of site breaches which is the cornerstone of effective public intervention.

Conclusion

33. 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 appeals and public inquiries. Those involve as at present, with one public inquiry after another, extensive work and a diversion of resources.

Recommendation

34. I RECOMMEND that MEMBERS:
 - (i) ENDORSE the actions taken or contemplated on the respective cases set out in paragraphs 11 to 26 above and those contained within Schedules 1 to 3 of Appendices 1 to 3.

Update on Planning Enforcement Issues

Case Officers: Robin Gregory / Alan Goodison

01622 221067 / 1064

Background Documents: see heading

This page is intentionally left blank

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	Breaching has ceased but restoration has proved protracted for complex legal reasons	This landfill site in need of restoration is the subject of an exempt report to these papers (see Item 11)
2	DC3/AS/08/COMP/0005 Pilgrims Way/Toll Lane, Charing (Member: Richard King)	Unauthorised importation, depositing and stockpiling of waste materials in the AONB / SLA, partly in the form of un-engineered earthbund. This makes use of and is in part an attempt to enhance a working rural platform, granted by Ashford BC.	To prevent further breaching and secure restoration of the site.	Planning Contravention Notice served. Breaching has ceased. The site operator has agreed to remove the deposited waste stockpiles and restore the site through informal resolution by 30 June 2008.	A negotiated solution has achieved with no further depositing of waste materials and full restoration.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
3	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), 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 currently ceased. That is pending the outcome of a retrospective planning application, recently submitted to this authority for a composting use on the land with retention of the access and hardsurfaces. I shall report to the next Meeting on the outcome of the application and any residual enforcement matters.
4	Canterbury DC3/CA/03/COMP/0089 Larkey Wood, Chartham (Member: John Simmonds)	Unlawful deposit of construction spoil on SLA valley side and related waste processing.	A County Court Injunction requires removal of surplus materials and waste related items and a return to agriculture with original slope profiles.	Of the three original land parcels; the two larger areas have been restored to agriculture, leaving remedial works to the remaining smaller area.	Under the action of the injunction, the contravenor has fully returned to agriculture. He is slowly but progressively restoring the crest of the valley side.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
5	<p>Dartford</p> <p>DC3/DA/03/COMP/0029 Dartford Gun Club, Dartford Marshes (Member: John Muckle)</p>	<p>Apparent waste importation and depositing on confirmed County Council Enforcement Notice area, with a part lawful / district permitted Gun Club now resident on site</p>	<p>The EA have taken the enforcement lead. An application to Dartford BC to retain the material has been anticipated. The County Council has reserved its enforcement position pending the outcome of both matters</p>	<p>The district council application is still awaited. The EA have apparently completed their investigation of the tipped material and its source and content</p>	<p>The EA and DBC retain the lead on this case. Members continuing support is still however sought on a contingency basis (and subject to Counsel's advice), for potential prosecution under the confirmed Enforcement Notice.</p>
6	<p>DA/00/72 & DA/04/993 150a Lower Hythe Street, Dartford (Member: Tom Maddison)</p>	<p>Unauthorised extension to an existing permitted waste transfer station into adjoining area (with lawful use for vehicle dismantling), with related waste processing</p>	<p>To pull back the extended use to the original permitted footprint area.</p>	<p>Achieved. The immediate level of breaching has been successfully challenged by KCC</p>	<p>Full compliance with the original permission will need to be periodically monitored. Continuing support for the serving of BCNs is sought, should that prove necessary</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
7	<p><u>Dover</u> DC3/DO/O8/COMP/0007 Roman Road, Dover (Member: Gordon Cowan & Bill Newman)</p>	<p>Unauthorised depositing of waste materials on private agricultural land</p>	<p>To investigate and see if the activity falls within the County Council's waste related remit.</p>	<p>The tipping has been halted and restoration is in progress.</p>	<p>A negotiated solution has been found, short of formal action. The submission of a scheme of restoration, respecting adjoining contours and capable of being enforced, has been submitted, vetted and well progressed on site.</p>
8	<p><u>Maidstone</u> DC3/MA/05/COMP/0010 Riverfield Fish Farm, Staplehurst (Member: Mrs Paulina Stockell)</p>	<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</p>	<p>Maidstone BC has primary enforcement responsibility. It is being advised by specialist retained Counsel under the recommendation of County Officers.</p>	<p>The EA has issued an Exemption from Site Licensing but continues investigating the activity along with Maidstone BC</p>	<p>KCC holds no immediate remit on available evidence. However, I have made myself available for enforcement and technical advice. Maidstone BC has issued a Temporary Stop Notice on more recent activity. The case is the subject of Exempt Item 12.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
9	DC3/MA/04/COMP/0060 Tutsham Farm, West Farleigh (Members: Mrs Paulina Stockell)	Depositing of builders waste on the southern bank of the River Medway	Cessation of tipping and to secure restoration.	Tipping had previously been stopped but has recently resumed. The EA has retained the enforcement lead, 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 latest tipping has been stopped on the service of an immediate Planning Contraventions Notice on the landowner. Continuing support is sought (in the context of available EA powers) for the service of an Enforcement Notice and if necessary the seeking of an injunction, to protect the landholding from any further deposits.
10	DC3/MA/04/COMP/0005 D&D Recycling, Detling Airfield	Unauthorised extension to permitted waste transfer station and alleged breach of Enforcement Notice	To halt further breaches and have waste stockpiles and processing plant & machinery removed.	The identified breaches have been reversed.	Timely intervention has returned the site to its original operating base. I shall regularly monitor the site however to ensure ongoing and tight compliance. I intend to remove from these schedules and add to our monitoring list.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
11	<p>Sevenoaks</p> <p>DC/SE/03/COMP/0085 Poll Hill Gypsy Site, Halstead, Sevenoaks (Member: Roger Gough)</p>	<p>Unauthorised deposit of significant quantities of spoil on land immediately to the north of the Poll Hill Gypsy Site, in the MGB and AONB</p>	<p>The original objective was to cover flytipping with soil but the quantities used were excessive and included spoil. The best form of restoration and resolution in the circumstances is sought under detailed guidance from the EA</p>	<p>A number of technical studies have been carried out concerning the content, integrity and stability of the tipped mass. The EA wish to add to that data through extended monitoring.</p>	<p>In my view, sustained analysis of the deposit will help inform the best and most appropriate form of restoration. Monitoring will meanwhile give an early warning of the need for any of the tipped waste to be removed. I seek support for that continuing stance.</p>
12	<p>DC3/SE/07/COMP/0014 Morley's Farm, Morley's Road, Sevenoaks (Member: Nick Chard)</p>	<p>Unauthorised waste recycling facility reported by the EA.</p>	<p>To investigate and see if the activity falls within the County Council's waste related remit</p>	<p>Long established use of minor waste recycling facility through hand sorting of waste materials, in part for agricultural purposes.</p>	<p>An invalid application for Lawful Use to retain the activity has been submitted to this Authority. The implications of that and the content of the application are still being assessed.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
13	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.	An investigation and site inspection established that the waste-related activities fell within the enforcement remit of the County Council.	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 set a compliance date of 30 September 2008. The site will be progressively monitored to that end. Both Sevenoaks DC and the EA have been informed of the County Council's enforcement position, with a view to supportive action if necessary.
14	Shepway SH/05/1425. A20 Scrapyard, Rear of Airport Café, Main Road, Sellindge (Member: Susan Carey)	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.	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 support is sought for the serving of an Enforcement Notice, if required.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
15	<p>Swale</p> <p>DC3/SW/05/COMP/0016 Woodgers Wharf, Upchurch (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 there has been no further importation and processing of waste on site. A Public Inquiry was held into the action on 22nd to 23rd July 2008.</p>	<p>The Enforcement Notice has been upheld and the case is reported in more detail in the main papers (see paragraphs 13 to 18 of Item 7).</p>
16	<p>DC3/SW/04/COMP/0059 Four Gun Field, Upchurch (Member: Keith Ferrin)</p>	<p>Alleged and sporadic waste-related use on a former brickfield with an industrially related lawful use</p>	<p>To ensure that no waste-related use develops on site, particularly given its sensitivity close to housing</p>	<p>The site has been monitored to guard against any alleged waste management breaches. Counsel has been retained given the legal complexity of the case</p>	<p>Continued support on a contingency basis for an EN/Injunctions. is sought. The case is reported in further detail on an exempt basis under Item 10 of these papers.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
17	DC3/SW/04/COMP/0049 Rasperry 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.	The operators are currently in prison. There have been no further breaches on site. The landowners will now need to be pursued for removal of the waste deposit and restoration. That in itself will be an extensive logistical exercise.
18	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 extended deadline for removal to take account of adverse weather conditions was 16 th May 2008.	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.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
19	DC3/SW/05/COMP/0014 Lime Kiln Wood, Wormshill, Sittingbourne (Member: / Keith Ferrin)	Part-infilling of wooded depression with unauthorised residential use.	To assist Swale BC who are taking the enforcement lead to protect the remaining TPO'd trees and secure acceptable restoration	Swale BC's Enforcement Notice against unauthorised residency on the site (and related matters) has been appealed and heard at Inquiry. The outcome is awaited.	KCC is acting in a supportive role in this case. To reinforce the Borough Council's actions and to secure eventual restoration to woodland, the service of a KCC Enforcement Notice may be necessary, depending on the outcome of the appeal.
20	Thanet TH/06/729 Unit J1C and J7 Westwood Industrial Estate Margate (Member: Bill Hayton & John Fullarton)	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.	Cessation of waste inputs and clearance of waste from the new site in absence of a valid planning permission.	This new alleged contravention has arisen from routine site monitoring.	The operator and landowner have been informed of the alleged unauthorised activities. Options are to vacate the new site and revert to the original permitted site or to seek retrospective planning permission at the larger unit. Either way, I seek contingency support from Members for the service of BCNs and / or an EN as required.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
21	<p>Tunbridge Wells 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 arrive at the best form of restoration in the circumstances, including the required quantities of material to be removed</p>	<p>The land has been shaped and contoured. The EA is currently in litigation with the alleged contravenor.</p>	<p>The EA's prosecution needs to run its course. I am reserving the County Council's enforcement position, awaiting this current avenue to restoration.</p>
22	<p>DC3/TW/06/COMP/28 Durrants Farm, Maidstone Road, Paddock Wood (Member: Alex King)</p>	<p>Unauthorised waste recycling facility reported by the EA.</p>	<p>To assist the EA in their enforcement lead.</p>	<p>Prosecuted by the EA. Site operator convicted in the Magistrates Court in April 2008. Fined £10,000 with £2,500 costs.</p>	<p>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.</p>

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, p 4(i)).	To prevent further breaching and secure restoration of the site	Breaching has ceased but restoration has proved protracted for complex legal reasons	This landfill site in need of restoration is the subject of an exempt report to these papers (see Item 11)
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.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
3	DC3/AS/04/COMP/0013 Naccolt Brickworks, Wye (Member: Charles Findlay)	Series of site managerial problems at this local neighbourhood recycling centre	To regularise the position through an updated application and close liaison with the EA	An invalid planning application is in abeyance pending discussions concerning potential relocation of the use.	Members continuing support is sought for the reserving of enforcement powers, pending a permanent planning solution to the management issues at the site. Relocation is one possibility and negotiations are ongoing. In the meanwhile, I intend to remove from these schedules and report back on any positive progress.
4	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 identified from a chargeable monitoring visit.	This web of alleged contraventions on site will need detailed attention. I intend to approach the breaches in the order given. To strengthen my enforcement stance I seek Member support for the serving of BCNs and an Enforcement Notice if required.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
5	<p>Dartford</p> <p>DA/00/72 & DA/04/993 150a Lower Hythe Street, Dartford (Member: Tom Maddison)</p>	<p>Unauthorised waste-related extension to existing permitted waste transfer station into adjoining area</p>	<p>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</p>	<p>First objective achieved.</p>	<p>Full compliance with the original permission will need to be periodically monitored. Continuing support for the serving of BCNs is sought, should that prove necessary.</p>
6	<p>Sevenoaks</p> <p>DC3/SE/03/COMP/0071 Brasted Sandpits, Sevenoaks (Member: Richard Parry)</p>	<p>Breach of the planning permission to extract sand from this site in the MGB, AONB and SLA</p>	<p>To secure early restoration of the site within the scope of the materials already on site.</p>	<p>Following long investigation and intervention by the EA on the waste tipped at the site, restoration may now in theory resume. The EA will continue to safeguard pollution and public health interests.</p>	<p>The Company operating the site has been wound up, considerably complicating the position on restoration. I intend to temporarily remove from these schedules, pending detailed negotiations with current and new potential land interests. I shall report back to Members on the progress of these talks.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
7	<p>Tonbridge & Malling DC3/TM/04/COMP/0019 Borough Green Sand Pit, Platt Industrial Estate, Borough Green (Member: Peter Lake)</p>	<p>Complaints of windblown sand, noise, extended hours of working and mud on the road</p>	<p>To ensure compliance with the relevant planning permission</p>	<p>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.</p>	<p>The issues raised have been considered in the context of the applications, including a Members Site Visit and where possible further amenity safeguards have been introduced. The S106 Agreement has yet to be concluded allowing release of the planning permissions.</p>
8	<p>TM/01/3081/MR95 Pearson Sand Pit, Addington Lane, Trottscliffe (Member: Sarah Hohler)</p>	<p>Delayed restoration of former and now backfilled sand quarry.</p>	<p>To secure an early completion of restoration</p>	<p>The site has now been largely restored with the exception of the remaining section of the access track. However, an application for its downgrade is expected.</p>	<p>I shall inform Members when the access issue has been resolved. Meanwhile I intend to take this item from the Schedules.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
9	TM/04/2028 Work House Quarry, Ryarsh (Member: Sarah Hohler)	Complaints from local residents of out of hours working and excavating outside of the permitted northern site boundary		The out of hours complaint was found to be an isolated incident and the works on site was slope profiling to achieve the best aesthetic result on site	Restoration is progressing well. I therefore intend to remove from these Schedules
10	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 outstanding information and schemes are now overdue but need in any event to be considered in the context of the northern extension application, submitted under TM/07/2545	I shall report to the next Meeting on progress in dealing with these outstanding matters.

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	<p>Canterbury</p> <p>CA/06/1187 Barton Court Grammar and Chaucer Technology Schools, Canterbury (Member: M.Northey)</p>	<p>Perimeter fencing partly erected without prior permission</p>	<p>To regularise the planning situation and agree appropriate specifications</p>	<p>Fencing has been completed in accordance with approved specifications</p>	<p>The breach has been resolved pending landscaping works. I therefore intend to remove from these schedules.</p>
2	<p>Dover</p> <p>DO/05/729 St Edmund's School, Old Charlton Road, Dover (Members: K. Sansum / W.Nerwman)</p>	<p>Construction of Business Resource Centre, in part outside of permitted footprint area.</p>	<p>To correct the constructional error as far as practicable. Also, to respond to the Ombudsman's requirement for a review and tightening of KCC's internal enforcement procedures, so avoiding similar problems in the future.</p>	<p>The development has been regularised.</p>	<p>The on-site issues have now been addressed and I therefore intend to remove from these schedules.</p>

	Site & Case Reference	Alleged Breach	Objectives / Actions	Progress	Notes / Remarks
3	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 case is reported in more detail in the main papers (See paragraphs 19 to 21 of Item 7).
4	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 in draft form. I shall keep Members informed.
5	Tunbridge Wells TW/07/421 The Sunrise Childrens' Respite Centre adjacent to Meadows School, London Road, Southborough (Member: R. Bullock)	Access road through Southborough Conservation Area constructed in advance of planning permission	To regularise the planning situation and agree more appropriate specifications	Retrospective application has since been permitted but amended specifications have still to be approved	The start of the scheme had been delayed by third party legal challenge. A revised start date is in hand and I now intend to remove this case from these schedules.

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

Agenda Item 8

Document is Restricted

This page is intentionally left blank

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

Agenda Item 9

Document is Restricted

This page is intentionally left blank

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

Agenda Item 10

Document is Restricted

This page is intentionally left blank