

REGULATION COMMITTEE

Tuesday, 18th June, 2013

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone





AGENDA

REGULATION COMMITTEE

Tuesday, 18th June, 2013, at 10.00 am
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.

Membership (17)

Conservative (9): Mr M J Harrison (Chairman), Mr A H T Bowles, Mrs V Dagger,
Mr J Davies, Mr T Gates, Mr P J Homewood, Mr S C Manion,
Mr J M Ozog and Mr J N Wedgbury

UKIP (3) Mr M Baldock, Mr H Birkby and Mrs M Elenor

Labour (4) Mr C W Caller, Mr G Cowan, Mr T A Maddison and
Mrs E D Rowbotham

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. Election of Vice-Chairman
4. Minutes (Pages 1 - 34)
 - (a) Committee: 22 January 2013
23 May 2013
 - (b) Member Panel: 19 February 2013 (2)
26 February 2013
5 March 2013
 - (c) Mental Health Guardianship Sub-Committee 30 January 2013
5. The Growth and Infrastructure Act 2013 and its impact on Village Green applications (Pages 35 - 40)
6. Update from the Commons Registration Team (Pages 41 - 42)

7. Update on Planning Enforcement Issues (Pages 43 - 56)
8. Other Items which the Chairman decides are Urgent
9. Motion to exclude the public

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 involves the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.

EXEMPT ITEMS

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

10. Update on Planning Enforcement issues at Larkey Woods, Chartham (Pages 57 - 60)

Peter Sass
Head of Democratic Services
(01622) 694002

Monday, 10 June 2013

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

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KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 22 January 2013.

PRESENT: Mr M J Harrison (Chairman) Mr A D Crowther (Vice-Chairman)
Mr A H T Bowles, Mr D L Brazier (Substitute for Mr C J Capon, MBE),
Mr R E Brookbank, Mr I S Chittenden, Mr H J Craske, Mrs V J Dagger,
Mr J A Davies, Mr T Gates, Mr W A Hayton, Mr R J Lees, Mr S C Manion,
Mr R F Manning and Mr J N Wedgbury

IN ATTENDANCE: Ms S Coventry (Public Rights Of Way Officer (Definition)),
Mrs L Wilkins (Definitive Map Team Leader), Ms M McNeir (Public Rights Of Way
and Commons Registration Officer), Mrs A Hunter (Principal Democratic Services
Officer), Mrs S Thompson (Head of Planning Applications Group), Mr R Gregory
(Principal Planning Officer - Enforcement) and Mr A Tait (Democratic Services
Officer)

UNRESTRICTED ITEMS

1. Minutes

(Item 3)

(1) Mr A D Crowther informed the Committee that he was a Member of Minster-on-Sea Parish Council. With reference to Member Panel Minute 12/2012, he had not participated in the Parish Council's discussions and preparation of the Scrapsgate Open Space Village Green application.

(2) Mr T Gates informed the Committee that he was a Member of Faversham TC which had proposed a footpath diversion to Public Footpath ZF5 at Faversham. He had attended the Panel meeting on 21 November 2012 in his capacity as Local Member.

(3) The Senior Public Rights of Way Officer referred to the Member Panel meeting on 24 September 2012, reporting that installation of the gate had been delayed pending a decision by Ashford BC on its design.

(4) The Democratic Services Officer informed the Committee of a complaint received into the conduct of the Member Panel meeting on 21 November 2012 (Faversham). He agreed to send a copy of the complaint to each Member of that Panel and the Local Member, together with the response from the Director of Governance and Law.

(5) Mr T Gates said that he believed that the County Council should not pursue its decision in respect of Public Footpath ZF5 until the complaint had been completely exhausted.

- (6) RESOLVED that the Minutes of the Committee meeting held on 5 September 2012 and of the Member Panels on 11 September 2012, 24 September 2012, 21 November 2012 (Sandgate) and 21 November 2012 (Faversham) are correctly recorded and that they be signed by the Chairman.

2. Site Visit to Shaw Grange, Charing on Tuesday, 26 March 2012

(Item 4)

The Committee noted that it would hold a site visit in Deal Field Shaw (Shaw Grange) at 2.00pm on Tuesday, 26 March 2013.

3. Update from the Definitive Map Team

(Item 5)

(1) A revised version of the report had been circulated to all Members of the Committee prior to the meeting. This explained that advice was being sought on whether publication and circulation of the new Definitive Map and Statement needed to be delayed until all outstanding Orders had been resolved.

(2) RESOLVED that the report be received.

4. Update from the Commons Registration Team

(Item 6)

(1) The Public Rights of Way & Commons Registration Officer and the Head of Planning Applications Group replied to questions on implications of the Growth and Infrastructure Bill by explaining that its aim was to prevent frivolous Village Green applications from holding up development and economic growth. The intention was to prohibit applications to register Village Greens where there was a planning application or a development plan allocation. The Head of Planning Applications Group expressed concern that there was a potential risk of ill prepared Village Green applications being promoted at the planning stage, leading to possible delays in the determination of planning applications and a stifling of pre-planning application discussions between developers and communities.

(2) RESOLVED that the report be received.

5. Home to School Transport

(Item 7)

RESOLVED that the report be noted.

6. Update on Planning Enforcement Issues

(Item 8)

(1) The Head of Planning Applications Group reported the views of the Local Members, Mr R Tolputt and Mr M J Whiting in respect of Case KCC/SH/0323/2012 Cube Metal Recycling and Case DC3/SW/11/COMP at Milton Creek.

(2) RESOLVED to endorse the actions taken or contemplated on the respective cases set out in paragraphs 5 to 28 of the report and those contained within Schedules 1,2 and 3 appended to the report.

7. Regulation Committee 2009 to 2013

(Item)

The Chairman said that this was the last meeting of the Committee before the County Council elections. He wished to take the opportunity to thank all Members and officers for the commitment and enthusiasm they had shown to the Committee's work over the past four years and expressed the hope that this work would continue in the same way in the future.

EXEMPT ITEMS

(Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that 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.)

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

(Item 11)

(1) The Head of Planning Applications Group reported on planning enforcement issues at Larkey Wood Farm in Chartham and set out a strategy to achieve an acceptable solution.

(2) RESOLVED that the enforcement strategy set out in paragraphs 5 to 9 of the report be endorsed.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 23 May 2013.

PRESENT: Mr M Baldock, Mr H Birkby, Mr A H T Bowles, Mr C W Caller, Mr G Cowan, Mrs V Dagger, Mr J Davies, Mrs M Elenor, Mr T Gates, Mr M J Harrison, Mr P J Homewood, Mr T A Maddison, Mr S C Manion, Mr J M Ozog, Mrs E D Rowbotham and Mr J N Wedgbury

IN ATTENDANCE: Mr P Sass (Head of Democratic Services)

UNRESTRICTED ITEMS

11. Membership

(Item 1)

The Committee noted its membership as set out above/

12. Election of Chairman

(Item 3)

RESOLVED that Mr M J Harrison be elected Chairman of the Committee.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in The Assembly Rooms, New Romney TN28 8AS on Tuesday, 19 February 2013.

PRESENT: Mr M J Harrison (Chairman), Mr R A Pascoe (Vice-Chairman), Mr I S Chittenden, Mr H J Craske and Mr R F Manning

ALSO PRESENT: Mrs C J Waters

IN ATTENDANCE: Ms M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

4. Application to register land at Cockreed Lane at New Romney as a new Village Green (Item 3)

(1) The Panel visited the application site shortly before the meeting. This visit was attended by the landowners Mr and Mrs Frith and some 6 members of the public.

(2) Mr A Frith, the landowner provided a copy of the text of his presentation to all parties prior to the meeting. Mr R A Pascoe noted that this presentation was intending to refer to Shepway DC. Mr Pascoe informed the Panel that he was a Member of Shepway DC but that he had not taken part in any discussions by that Authority about the application or any related topic.

(3) The Commons Registration Officer opened her presentation by explaining that the application had been made in October 2011 under Section 15 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008. In order for registration to take place, it needed to be shown that a significant number of the inhabitants of any locality, or of any neighbourhood within a locality had indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years.

(4) The Commons Registration Officer then said that the application had been supported by 40 user evidence forms and that letters of support had been received from the Local Member, Mrs Waters and from Shepway DC Councillor, Mrs E Gould.

(5) The Commons Registration Officer went on to inform the Panel that the landowners, Mr and Mrs Frith had objected to the application (supported by an opinion from Counsel.) One of these objections had been that the applicants had not complied with the relevant statutory requirements in relation to the service of notice on the landowner. She therefore went on to address this particular question.

(6) The Commons Registration Officer said that the applicants were required were required by Regulation 20 (1) of the Commons Registration (England) Regulations 2008 to serve notice of the application on the landowner "as soon as reasonably practical after receiving an acknowledgement of an application." She said that the

Regulations seemed to have been written on the assumption that the Registration Authority would immediately begin working on an application the moment it was received. In practice, KCC had been faced with a six month backlog at the point of receipt. The applicants had therefore been asked to notify the landowner informally but to wait until after KCC had published the notice to do so officially. In the light of the applicant's objection, legal advice had been taken. This advice had indicated that the landowner had placed too much reliance on the words "as soon as reasonably practical." This phrase was not as restrictive as the landowner believed, and DEFRA guidance appeared to advise that the landowner's objection period should run roughly in tandem with the consultation period. She therefore did not consider that the application should be treated as having been abandoned.

(7) Mr Craske asked for confirmation that the application had been acknowledged informally at an early stage. The Commons Registration Officer replied that this had happened within a week of receipt and that the applicants had been asked to informally notify the landowner at the same time.

(8) The Commons Registration Officer moved on to consider the legal tests. The first of these was whether use of the land had been "as of right." There was no evidence to indicate that use had been in secrecy or with permission. The question remained whether such use had been with force. This did not on this occasion mean physical force. The landowner's view was that use had been contentious.

(9) The landowner had stated that there had been verbal challenges and that notices reading "Private Property Keep to Footpath" had been erected in 1992. The applicant, however, disputed this and claimed that no one had seen any such notice or been challenged. This view was supported by some of the user evidence forms. The Commons Registration Officer said that it was not possible to come to a definitive conclusion on this conflicting evidence based on the paperwork. Further investigation would be needed in order to reach an informed conclusion.

(10) The Commons Registration Officer then addressed the question of whether the land had been used for the purposes of lawful sports and pastimes. She referred to the User Evidence Forms set summarised in Appendix C of the report. These described activities such as dog walking, picnicking and blueberry picking. The landowner disputed this, saying that he had not witnessed any significant recreational use and that, in any case, the land had been used for intensive arable crops between 1989 and 1992 (at the beginning of the 20 year period in question) and for sheep grazing between 1993 and 2000.

(11) The Commons Registration Officer said that the landowner had claimed that much of the claimed land use must have been associated with the public footpath. If so, this use would not have been capable of giving rise to a general right to recreate over the whole of the land (as established by the Courts in the *Laing Homes* case.) However, the only way of resolving the conflict of evidence was to test it at a public inquiry.

(12) The Commons Registration Officer turned to the question of whether use had been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality. Following questioning of the applicant's original description, the applicant had identified Craythorne Manor as the neighbourhood within the locality of New Romney. The applicant claimed that Craythorne was a

historic neighbourhood, but this was disputed by the landowner. This question needed further investigation. So too did the dispute between the two parties as to whether a significant number of people had used the land.

(13) The Commons Registration Officer then confirmed that the test of usage taking place up to the date of the application or within two years of “as of right” use ceasing had been met (although it was not clear whether the period in question ran from 1989 to 2009 or from 1991 to 2011. In either case, the dispute over the landowner’s contention that the land had been used for intensive arable crops and sheep grazing needed to be examined in order to establish whether the test of use taking place over twenty years or more had been met.

(14) The Commons Registration Officer concluded her presentation by saying that she was recommending that the application should be considered at a non-statutory public inquiry as the various disputes over evidence could not be resolved on paper.

(15) Mr Mark Skilbeck addressed the Panel as a supporter of the application. He said that he agreed with the recommendations as a non-statutory public inquiry would enable the witnesses to give their statements in greater detail. It would also enable them to describe the gymkhanas and horse shows that had been held on the land.

(16) Mr Skilbeck went on to say that he agreed that the land had at least been used up to 2009. It could be that the erection of fencing in that year had made it more difficult for some of the more elderly inhabitants to access the land. He considered that a public inquiry would test the landowner’s contention that signs had been put up on the land at any time as well as the question over how much use had been associated with the public footpath. He was confident that it would be demonstrated that Craythorne Manor was indeed a valid neighbourhood. He concluded by making reference to a planning application made by the landowner in December 2002 in which he said he had described the land as former agricultural land that had not been used for 12 years.

(17) Mr Frith (landowner) said that he objected most strongly to the application which, he believed, would not have been made if the land had not been identified as a preferred site for development by Shepway DC in their core strategy. He said that he had farmed the land continuously since 1966, growing potatoes and wheat, followed by sheep grazing and thereafter by the cultivation of crops such as potatoes, wheat, barley and oil seed rape. There had then been a period of “set aside” as required by DEFRA and the field was now used for sheep grazing. He questioned why no one had objected to the continuous cultivation of the land between 1986 and 1992 if it had been used “as of right” during that period, as it would have been impossible to use it for recreational activities.

(18) Mr Frith then said that he had given permission for various activities such as football and a Gymkhana in aid of the BA BA Walk. He had given a one-off permission for the organisers of the BA BA Walk to cut down the vegetation in order to create a walkway in the field that made it possible for small children and mothers with infants to participate in this charitable event. He said that he had always been a socially responsible and public-spirited farmer and gave a number of examples.

(19) Mr Frith then said that there were a number of reasons why the application should be turned down without recourse to a non-statutory public inquiry. He said that

the applicants had failed on two occasions to put in evidence of a qualifying neighbourhood. Furthermore, they had not given any specific why Craythorne Manor should be categorised as a qualifying neighbourhood. He quoted Lord Hoffman's judgement in the *Oxfordshire CC v. Oxford CC* case in which he had said that the Registration Authority "*has no investigative duty which requires it to find evidence to reformulate the applicant's case. It is entitled to deal with the application and the evidence as presented by both parties.*"

(20) Mr Frith concluded his presentation by saying that the effect of the *Beresford* judgement was that the burden to prove all elements of the definition of a Village Green (including a qualifying neighbourhood) was on the applicants and that the application should therefore be rejected because of their failure to do so.

(21) Mr Frith replied to a question from Mr Manning by saying that the land had been put into "set aside" between the years 1992 and 2009. The trench had been dug in August 2003 alongside Cockreed Lane and Rolfe Lane. It had then been filled in after the fencing had been put up.

(22) Mrs C Waters (Local Member) said that she considered that there was not enough conclusive evidence to enable the Panel to reach a safe decision on the application. She therefore agreed with the recommendation that there should be a non-statutory inquiry. This would enable all the relevant facts to be assembled and fully considered. She also confirmed that she had not personally used the site.

(23) Mr R A Pascoe moved, seconded by Mr H J Craske that the recommendations of the Head of Regulatory Services be agreed.

(24) In seconding the motion, Mr Craske said that he was satisfied on the evidence that the application had been duly made and therefore should not be abandoned.

(25) On being out to the vote, the Panel unanimously carried the motion as set out in (23) above.

(26) RESOLVED that a Public Inquiry be held into the case to clarify the numerous issues.

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Council Chamber, Shepway District Council, Castle Hill Avenue, Folkestone CT20 2QY on Tuesday, 19 February 2013.

PRESENT: Mr M J Harrison (Chairman), Mr R A Pascoe (Vice-Chairman), Mr I S Chittenden, Mr H J Craske and Mr R F Manning

ALSO PRESENT: Ms S J Carey

IN ATTENDANCE: Ms M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

5. Application to register land at Mount Pleasant at Hildenborough as a new Village Green (Item 3)

(1) The Commons Registration Officer said that the application for voluntary registration of the land had been made under Section 15 of the Commons Registration Act 2006 which allowed the owners of the land (Hildenborough Parish Council) to apply for to register it as a Town or Village Green.

(2) The Commons Registration Officer referred to the report for a description of the site layout and also tabled colour photographs of the land in question. She added that the Local Member, Mrs V J Dagger had expressed her full support.

(3) The Commons Registration Officer then said that the application passed the two necessary tests in that the land was wholly owned by Hildenborough PC and that the relevant locality was the parish of Hildenborough. She therefore recommended that registration should take place.

(4) The Panel unanimously agreed the recommendations.

(5) RESOLVED that the applicant be informed that the application to register the land at Mount Pleasant has been accepted, and that the land subject to the application be formally registered as a Village Green.

6. Application to register land at Woodlands Road at Lyminge as a new Village Green (Item 4)

(1) The Panel Members visited the site before the meeting. This visit was attended by the applicant, Mr Steven Huntley and by some 5 members of the public.

(2) The Commons Registration Officer introduced the application which had been made under Section 15 (1) of the Commons Act 2006. It had been objected to by

Cripps Harries Hall LLP on behalf of the Tory Family who had been the landowners at the time the application had been made. The Regulation Committee Member Panel had originally considered the application on 15 November 2011 and had resolved to refer it to a non statutory public inquiry in order to clarify the issues.

(3) The Commons Registration Officer then said that the landowners had gifted the land to Lyminge Parish Council shortly before the public inquiry was due to begin. The Parish Council had decided not to present any evidence. As a result, the Inspector had decided that it would not be necessary to hold a public inquiry and that he would produce a report based on the written evidence before him. This report was contained as an Appendix to the agenda papers.

(4) The Commons Registration Officer moved on to explain the Inspector's conclusions (which she shared) on the legal tests which needed to be met for registration to take place. The first of these was whether use of the land had been "as of right." Use had clearly not been by force or secrecy; the question remained as to whether use had been with permission. The Inspector's conclusion had been that although permission had indeed been granted for specific activities such as the annual bonfire, there had been no evidence that this had led to members of the public being excluded from any part of the field whilst they were taking place, as the landowners would have needed to have done if they wished to convey the message that use of the land was generally with permission.

(5) The Inspector had also considered the implications of the recorded Public Rights of Way which crossed the site. He had discounted such use for the purposes of reaching his conclusions. Having done so, he had formed the view that there was sufficient evidence to demonstrate that the use of all the land had been sufficiently widespread for him to conclude that use of the application site had been as of right throughout the period in question.

(6) In respect of whether use of the land had been for the purposes of lawful sports and pastimes, the Inspector had been satisfied that there was a great deal of evidence of a wide variety of activities throughout (and beyond) the period in question. He had therefore concluded that this test had been met.

(7) The Inspector had agreed that the parish of Lyminge was a qualifying locality and that there was no need to attempt to identify a neighbourhood within it. He had therefore moved on to consider whether a significant number of inhabitants of the locality had used the site for lawful sports and pastimes. His conclusion had been, on the balance of probability that (even when excluding use of the Public Rights of Way) there had been sufficient use of the site for such purposes for it to be described as "general" rather than "infrequent or sporadic." The Inspector had therefore come to the view that this test had been met.

(8) The Inspector had also agreed that use had continued for over twenty years up to the date of the application.

(9) The Inspector had concluded as a result of his investigations that all the necessary legal tests had been met and had recommended that the land should be registered.

(10) The Commons Registration Officer explained that whilst it would have been possible for her to have assessed the paperwork, the Inspector had already been instructed to carry out his research. She confirmed that her view was that the Inspector had reached the correct conclusion. She therefore recommended accordingly.

(11) Mr Steven Huntley (applicant) thanked the Commons Registration Officer for the report. He added that the people from the parish of Lyminge had provided a lot of information in order to support the application.

(12) Ms Carey (Local Member) said that the Tory Family had been very good owners of the land. The Parish Council would be able to precept the upkeep of the land to those who benefitted from it.

(13) On being put to the vote, the recommendations of the Head of Regulatory Services were carried unanimously.

(14) RESOLVED that for the reasons set out in the Inspector's report dated 29 November 2012, the applicant be informed that the application to register the land at Woodland Road at Lyminge has been accepted and that the land be formally registered as a Village Green.

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REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the The Large Hall, Swalecliffe and Community Association, 19 St John's Road, Herne Bay CT5 2QU on Tuesday, 26 February 2013.

PRESENT: Mr M J Harrison (Chairman), Mr R A Pascoe (Vice-Chairman), Mr H J Craske and Mr R J Lees

IN ATTENDANCE: Mr C Wade (Countryside Access Principal Case Officer), Ms M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

7. Application to register land at Ursuline Drive at Westgate as a new Village Green *(Item 3)*

(1) The Panel Members visited the application site before the meeting. This visit was attended by Mr Graham Rickett (applicant) Mr Tony Skykes (Westgate Residents Association), Mr Tom King (Local Borough Councillor) and Mr R G Burgess (Local Member).

(2) The Commons Registration Officer introduced the application which had been made under Section 15 of the Commons Act 2006 by Mr G Rickett. The application had been accompanied by 71 user evidence questionnaires, a petition containing 177 signatures and a letter of support from the Westgate and Westbrook Residents Association. During the consultation period, Thanet DC had raised no objection, whilst the local District Councillor had written to express her full support for the application.

(3) The Commons Registration Officer then said that the landowner was the Dane Court Grammar and King Ethelbert School Trust. Their solicitors (Winckworth Sherwood LLP) had written on their behalf to object to the application. Their grounds for objection were that the use of the site had not been “as of right” because verbal challenges had been made by the landowner; that such use had been insufficient to indicate to a reasonable landowner that a continuous right was being asserted; that the evidence provided was “skeletal and deficient”; that the overgrown state of the site supported the contention that use of the site had been minimal; and that the neighbourhood identified by the applicant was insufficiently cohesive to qualify as such. The solicitors had also suggested that the application should be referred to a Public Inquiry before a decision was made.

(4) The Commons Registration Officer then went on to consider the legal tests. The first of these was whether use of the land had been “as of right.” She said that there was a conflict of evidence in that the supporters of the application had given no indication of having been challenged and that there had been no prohibitive notices or other restriction to use of the site during (and beyond) the period in question. The

landowner, on the other hand, contended that use of the land by students would have been by implied licence; that a number of events had been given specific permission; and that verbal challenges had been made to dog walkers. Three members of staff had provided statements to this effect.

(5) The Commons Registration Officer gave her view that the evidence as a whole suggested that use had taken place “as of right” but that further investigation would be needed on the question of verbal challenges before an informed conclusion could be reached.

(6) The second test was whether use of the land had been for lawful sports and pastimes. The user evidence suggested that the land had been used for a wide range of recreational activities. The landowner, however, contended that use had been skeletal and deficient and that it was not clear whether such use as had been attested had actually taken place on the site itself (as opposed to the wider area).

(7) The landowner had suggested that the overgrown nature of the site indicated that use must have been limited. The applicant’s response was that the long grass referred to by the landowner had occurred during the wet summer of 2012 (outside the period in question).

(8) The Commons Registration Officer said that there was a clear conflict in evidence, giving rise to two different versions of events. As such, it would require further investigation.

(9) The Commons Registration Officer then turned to the test of whether use had been by a significant number of inhabitants of a particular locality or neighbourhood within a locality. She said that the applicant had identified an area of housing in the vicinity of Ursuline Drive as a neighbourhood within the locality of Westgate-on-Sea Ward. The landowner had challenged this on the grounds that the area in question lacked the cohesiveness and collective facilities necessary for it to be described as a neighbourhood. This aspect of the test would need to be further tested as it could not be resolved based on the paper evidence.

(10) The Commons Registration Officer said that it was also impossible to come to an informed conclusion as to whether a significant number of people had used the land. The applicant had provided 71 user evidence forms, whilst the landowner contended that there had only be occasional use. The differences in recollection could only be resolved by further testing the evidence.

(11) The Commons Registration Officer then said that use had clearly taken place up to the date of the application. It had also taken place over a period of twenty years (although this had to be taken in the light of the landowner’s comments.)

(12) The Commons Registration Officer concluded her presentation by saying that in the light of the numerous conflicts of evidence, her recommendation was that there should be a non-statutory public inquiry in order that the issues could be clarified.

(13) In response to questions from Mr Pascoe, the Commons Registration Officer said that although the neighbourhood claimed by the applicant was a small area, there was no case law setting a lower limit on the size that a neighbourhood had to

be. The footpath that went around the land in question was not recorded as a Public Right of Way.

(14) Mr Graham Rickett (landowner) provided the Panel with a document which addressed the question of neighbourhood. He then addressed the objections to the application made by the landowner (summarised in paragraph 16 of the report). He said that although the landowner's solicitors had provided evidence of verbal challenges to dog walkers, these statements had not actually specified which field these had been issued on. From some of the descriptions given, he considered that the most likely venue for these challenges had been the Pavilion Field rather than the application site itself.

(15) Mr Rickett then said that the existence of 71 user evidence forms, together with the statements contained within them adequately demonstrated that there had been sufficient use to indicate to a reasonable landowner that local residents were asserting a continuous right. The evidence given was, in his view, far greater than "skeletal and deficient" and the statement made by the landowner about the overgrown state of the site was not relevant because it related only to the year 2012 which was outside the application period.

(16) Mr Rickett went on to say that the landowner was wrong to rely on the implied licence for students, as their circumstances were completely different from the public who were claiming to have used the land "as of right."

(17) Mr Rickett referred to both the *Beresford* and the *Barkas v North Yorkshire County Council* cases which, he said, had established that informal recreation on land owned by a local authority could not be considered as use "by right."

(18) Mr Rickett then said that the landowner's representations about the overgrown nature of the site were contradicted by photographs of the site taken in October 2011, showing the site with the grass having been cut. He said that the School always cut the grass and had continued to do so until the wet summer of 2012.

(19) Mr Rickett said that the reason he had put forward the area of housing in the vicinity of Ursuline Drive was because he had been advised to do so by KCC and also because it was a Neighbourhood Area which contained a pub, hardware store, fish and chip shop, Chinese takeaway. It also had a shared general space, which taken together with the local shops ensured that it was a cohesive unit.

(20) Mr Rickett said that the report quoted the judgement in the *R v Suffolk County Council, ex parte Steed* case. This judgement had been widely criticised as being "judge-made law." *The Commons Registration Officer explained that, although the judgement had been overturned, the particular quotation that appeared in paragraph 49 was still commonly quoted to demonstrate the need for the legal testes to be "properly and strictly proved."*

(21) Mr Rickett concluded his presentation by saying that he believed that the Panel had sufficient evidence to agree the registration. This would be beneficial to both the School and the community. The local residents would share the costs of upkeep and would always defer to School use. The area was full of natural beauty, which was the reason that the application enjoyed the support of Thanet DC, Westgate and Westbrook Residents Association, the Kent Wildlife Trust, the Thanet

Countryside Trust as well as the local residents both through the 71 user evidence questionnaires and the 177 signature petition.

(22) The Countryside Access Principal Case Officer clarified that the land would continue in the School's ownership if registration took place. However, it would not be able to take any action on its land to disrupt its use by local people for lawful sports and pastimes.

(23) Mr Tony Sykes (Westgate and Westbrook Residents Association) said that the Residents Association fully supported the application and would consider it to be a great loss if the land were to be developed. He considered that an unnecessary cost would be incurred if the County Council decided to refer this matter to a Public Inquiry. English Nature recommended that there should be 2 hectares of open space per 1,000 head of population. This part of Thanet had half that amount.

(24) Mr Tom King (Thanet District Councillor) said that Westgate was the second most deprived area in the County. In addition, the 2010 National Health reports showed Thanet faced with 50 deprivation indicators. Registration of the land as a Village Green would be of great benefit as an aid to inclusiveness. The land was used for picnicking and had always been well kept up until the wet summer of 2012.

(25) The Commons Registration Officer confirmed in response to a question from Mr Craske that the case of need for a Village Green was not one which the Panel was legally entitled to consider.

(26) Ms Collette McCormack (Winckworth Sherwood LLP) said that the lack of objection to the application from Thanet DC was due to the fact that it was within the Green Wedge. The District Council would therefore have no objection on planning grounds. It could not, though, be surmised that the District agreed with the legal case for registration. She added that if land was held under statute for certain purposes, it must follow that use by the public must be "by right" rather than "as of right." The land in question had a hardstanding and had also been the subject of lettings during the school holidays for such activities as police dog training. No charge had been made for these lettings. She concluded by saying that the application should be refused as it was clear that the required tests had not been met.

(27) Mr Luxmore (Executive Head Teacher) said that if the land were registered as a Village Green he would not be able to allow the pupils to use it. If this happened, the School would still need to maintain it. In effect, this would lead to the children paying for the upkeep of a Village green with no benefit to them. He added that people had been ejected from the land on occasions such as Sports Days.

(28) The Commons Registration Officer commented that the effects of registration were not a matter that the Panel could take into account in reaching its decision. She considered that there was a conflict of evidence and that the landowner's claim to have asserted his right to the land by ejecting people on occasions was not supported by any evidence at this stage. A Public Inquiry was the only way of testing the evidence provided by all parties.

(29) Members of the Panel commented that the evidence provided by each party was disputed by the other, and that there was no possibility of coming to a safe conclusion at this point. The only tests that had clearly been met were that the land

had been used for twenty years up to the date of the application. The question of whether the land had been used as of right for lawful sports and pastimes by a significant number of residents of a neighbourhood within a locality could not be definitively answered.

(30) On being put to the vote, the recommendations of the Head of Regulatory Services were carried unanimously.

(31) RESOLVED that a non-statutory Public Inquiry be held into the case to clarify the issues.

8. Application to register land known as Grasmere Pastures at Whitstable as a new Village Green

(Item 4)

(1) The Panel visited the application site before the meeting. This visit was attended by Mr Paul Watkins (landowner) and Mr Michael Lewer (Objector).

(2) The Chairman informed the Panel that he was the Local Member for the site in question. He had not discussed the Grasmere pastures issue with the applicant Mrs Watkins. Nor had he given any help or advice to any supporter of the application. He was therefore free to approach its determination objectively and impartially. He asked whether anyone present had any objection to him chairing the meeting for this item. As no one did raise any objection, the meeting continued with Mr Harrison in the Chair.

(3) The Commons Registration Officer introduced the application which had been made under Section 15 of the Commons Act 2006. The land in question was owned by OW Prestland Ltd (represented by Mr Watkins). This company was, in turn owned by Kitewood Estates (represented by Mr Michael Lewer.)

(4) The Commons Registration Officer continued by saying that the application had been considered by a Panel in February 2011 and that the decision had been taken to refer the case to a non-statutory Public Inquiry. The Inspector had produced a 350 page report in November 2012.

(5) The Commons Registration Officer went on to summarise the Inspector's findings. She had firstly considered the question of whether use had been "as of right." She had heard a great deal of evidence in relation to the taking of the annual hay crop and had concluded that (whilst the landowner had tolerated public use outside the growing season between May and September each year) use by the public during the growing season had largely been confined to the footpaths and their perimeters. Such usage had been discounted by the Inspector for the purposes of considering whether the applicant had been able to demonstrate sufficient qualifying use.

(6) The Inspector had also considered a considerable amount of evidence in respect of fencing, notices and mounds dug around the perimeter. Even though the small area in the north west corner had been excluded from the application, the Inspector had concluded that a locked gate had been erected at this potential entrance. She had also found that two "Private Property No Trespassing" notices had been put up in September 2004 at the earliest. She had accepted that the fencing

and mounds had not been in place after the qualifying period had ended (i.e. 14 September 2004).

(7) The Inspector's overall conclusion had been that the landowner had taken sufficient action to convey to a reasonable user that his use had become contentious. As a result, she had found that use had not been "as of right" during the growing period or during the latter part of the twenty year period.

(8) The Commons Registration Officer went on to consider the Inspector's findings in respect of whether the land had been used for the purposes of lawful sports and pastimes. The Inspector had concluded that the level of use of the site had been restricted at the beginning of the relevant period during the growing season. Had any other activities taken place at this time, they would have damaged the crops and would need to be viewed as criminal damage rather than as a lawful sport or pastime. She had therefore made the determination that the use during the growing season during this period had been associated with the public rights of way rather than as an assertion of a general right to recreate over the whole of the land.

(9) The Inspector had accepted that South Tankerton and Chestfield were qualifying neighbourhoods within the locality of Canterbury City Council's administrative area. She had, however, decided on the evidence provided that whilst there had been a significant level of use during the latter part of the qualifying period she could not agree that a significant number of inhabitants from the neighbourhood had used the whole site during the growing season in the early part of the qualifying period.

(10) The application had been made on 14 September 2009. In order for it to be able to succeed, use would have needed to continue for a 20 year period up to five years before the application had been made. This would have required use to have continued until 15 September 2004. The Inspector had found that use had ceased to be "as of right" on the day that the "no trespassing" signs had been erected on 8 September 2004. For this reason, the application had failed (albeit by only one week) to meet the required test. The Inspector had also found that use had not taken place over a 20 year period (as a result of her findings in respect of the growing season during the early part of the application period.)

(12) The Inspector's overall conclusion had been that the application should fail because the applicant had been unable to satisfy her that there had been sufficient use of the land between 1984 and 2004 to have given the appearance of the assertion of a right to use the whole of the site for lawful sports and pastimes; and because the landlord had taken steps to communicate to a reasonable that use was contentious shortly before the end of the qualifying period on 15 September 2004.

(13) The Commons Registration Officer said that the Inspector's full findings had been sent to interested parties for comment. The applicant had commented that the Inspector had made a number of fundamental errors in her approach. These had been, firstly that she had applied her own "reasonableness" test in deciding whether use had been "as of right" instead of simply considering whether use had been without secrecy, force or permission. The second perceived flaw was that the Inspector should not have discounted use of the tracks across and around the application site. The third was that there was no evidence that anyone had knowingly caused damage to crops during the growing season. A certain amount of wear and

tear had nevertheless occurred as a result of the lawful sports and pastimes that had taken place. The applicant also considered it to be wrong in law to exclude hay meadows from registration as a village green merely because people kept off the crop whilst it was growing. The final criticism was that the erection of two signs when there were six entrances should not be seen as an attempt by the landowner to take all reasonable steps to contest use by the public.

(14) The Commons Registration Officer said that the applicant's criticisms had been submitted to a different Counsel for further comment. His advice had been that there had been little substance to the applicant's criticisms and that there was no reason to depart from the Inspector's findings.

(15) The Commons Registration Officer said that in the light of the findings of the Inspector and the second Counsel, she took the view that registration of the land should not take place. She therefore recommended accordingly.

(16) Ms E Sherratt (Kent Law Clinic) addressed the Panel on behalf of the applicant. She said that the Inspector had found (in paragraph 17.45 of her report) that substantial use had taken place, but had moved on to had misdirect herself by applying the "reasonableness" test, as the *Lewis* case had superseded this approach.

(17) Ms Sherratt then said that use of two entrances was insufficient to convey to the public that use of the land was contentious. Most of the public entered via The Ridgeway, where no sign existed. This indicated that the efforts of the landowner to stop use were not proportionate to the level of use taking place and were therefore insufficient to indicate that a challenge was being made.

(18) Mr Michael Lewer addressed the Panel in opposition to the application. He referred to Ms Sherratt's quotation of paragraph 17.45 of the Inspector's report and asked the Panel to note that the "significant number of local residents" who had used the site had done so "outside the growing season." Her previous paragraph (17.44) had indicated that she was "not satisfied that the level of use of the land at the beginning of the relevant period during the growing season was such that it would have appeared to a reasonable landowner to have the character of the assertion of a public right to use the whole of the application land for recreation rather than the assertion of a public right of way across the tracks." Mr Lewer said he considered the Inspector's comments in these two paragraphs to be entirely consistent with her findings.

(19) Mr Paul Watkins (landowner) said that he disagreed with Ms Sherratt's view that the erection of the two signs had not been sufficient to indicate that a challenge was being made to local use. The applicant's bundle had referred to a local Parish Council meeting shortly after the signs had gone up. The minutes from that meeting had recorded that lots of local residents had come to this meeting in order to give their views about the erection of these signs.

(20) On being put to the vote, the recommendations of the Head of Regulatory Services were carried unanimously.

(21) RESOLVED that, for the reasons set out in the Inspector's report dated 11 November 2012 and the further advice from Counsel dated 31 January 2013,

the applicant be informed that the application to register land known as Grasmere Pastures at Whitstable has not been accepted.

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Staplehurst Village Centre, High Street, Staplehurst TN12 0BJ on Tuesday, 5 March 2013.

PRESENT: Mr M J Harrison (Chairman), Mr R A Pascoe (Vice-Chairman), Mr H J Craske and Mr J Davies

ALSO PRESENT: Mrs P A V Stockell and Mr J N Wedgbury

IN ATTENDANCE: Ms M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

9. Application to register land known as The Cricket Field at Marden as a new Village Green

(Item 3)

(1) Members of the Panel visited the site before the meeting. This visit was attended by the applicant, Mr Trevor Simmons, Mr Roger Day (landowner), Mr Frank Tipples and Mr Steven Wickham (Marden Hockey and Cricket Club) and Mrs P A V Stockell (Local Member.)

(2) The Commons Registration Officer introduced the application which had been made by Mr Trevor Simmons under section 15 of the Commons Act 2006. The application had been accompanied by 30 user evidence forms and had received written support from the Marden History Group and the Marden Society as well as from 19 local residents. Marden PC also supported the application. Letters of objection had been received from 11 local residents.

(3) The Commons Registration Officer went on to say that the landowner was Mr Roger Day who had leased it to the Marden Hockey and Cricket Club. An objection had been received from Bircham Dyson Bell LLP on behalf of the landowner and the Club. Their grounds for objection were that the user evidence only revealed trivial and sporadic recreational use; that use had been "by right" rather "as of right" as many people had been guests of the Club and a significant number of the claimed recreational activities were the same as those undertaken by it; that the relevant locality had not been sufficiently defined and use had not been by a significant number of the residents; that the land had been fenced, with access to it being regulated by stiles and gateways which had been locked when not in use, with private notices visible; and that there was evidence that informal recreational users had been challenged.

(4) The Common Registration Officer moved on to consider the individual legal tests. The first of these was whether use of the land had been "as of right." She said that it was clear that use had not been by physical force or stealth. However, the question of whether use had been challenged remained to be resolved as it was not

clear whether the site had ever been entirely secured to prevent public access. The Panel Members had seen the “Private Ground” notice that morning. It was, however, unclear whether this notice had always been there or had been sufficiently prominent to constitute a clear challenge to access by the public.

(5) A further issue was whether the claimed recreational use was by implied permission. It was possible that if members of the Club were using the site for recreational activity, then the landowner would not have needed to challenge them, as it would have given the impression of an extension of Club membership activity rather than as the assertion of a public right.

(6) The Commons Registration Officer said that the uncertainties described could only be resolved through further and more detailed examination of the evidence.

(7) The second question was whether use of the land had been for lawful sports and pastimes. The Commons Registration Officer said that the user evidence suggested that there had been a range of recreational activities, including dog walking, jogging, playing with children and ball games. It was, however, not possible on the basis of the questionnaires to distinguish between informal and formal cricket. This was an important distinction as any member of the Club who was playing cricket would be doing so “by right” and could therefore not be considered for the purposes of establishing whether lawful sports and pastimes had taken place “as of right.” It was also unclear whether tennis activities had taken place on the application site itself or on the neighbouring tennis courts.

(8) The Commons Registration Officer then turned to the question of whether use had been by a significant number of inhabitants of a particular locality or a neighbourhood within a locality. The applicant had specified that the locality was within the boundaries of Stanley Road and Albion Road. The landowner had argued that this was not a sufficiently defined locality. However, there was no reason why the parish of Marden would not suffice as a qualifying locality.

(9) The Commons Registration Officer explained that the term “significant number” meant that the number of people using the site had to be sufficient to indicate to the landowner that the land was in general use by the community for informal recreation. She added that it was not, at this stage, possible to reach a safe conclusion on this point as further evidence would need to be sought to establish the amount of use that was related to the Club and how much was entirely independent of it.

(10) The Commons Registration Officer then said that use of the application site had continued up to the date of the application in 2011 and that the user evidence forms suggested that the land in question had been used for the required 20 year period.

(11) The Commons Registration Officer concluded her presentation by saying that she considered that the most appropriate way forward would be to hold a Public Inquiry in order to clarify the issues that currently remained unclear. This would enable the Panel to reach an informed decision as to whether the land in question was capable of registration as a Village Green.

(12) Mr Trevor Simmons, the applicant said that he believed that the land had been used “as of right.” A Public Inquiry would be able to establish that a significant majority of the use had been for informal recreation as opposed to official cricket.

(13) Mr Simmons went on to say that he accepted that he had misunderstood the legislation when he had identified the land between Stanley Road and Albion Road as the “locality.” He referred the Panel to Appendix C of the report and said that the user evidence forms had been completed by people from the whole of Marden Parish, which he therefore agreed was the actual qualifying locality.

(14) Mr David McFarland said that he represented the Marden History Group and Heritage Centre, located in the village library. The purpose of this organisation was to seek, preserve, research, inspire interest in and transmit the history of the parish of Marden. He also, on this occasion, represented the Marden Society whose purpose was to protect the character of the village of Marden.

(15) Mr McFarland said that the organisations he represented agreed with, and supported the applicant’s submission for the reasons set out in their letters of 9 and 14 July 2012. These letters referred to 637 petitioners who wished to protect the cricket field, and the erection in July 2012 of notices forbidding access to the site by non-members of the Cricket and Hockey Club.

(16) Mr McFarland then said that he wished to put the application into the wider context of the village predicament and its responses. He quoted an extract from a comment that his organisations had posted in the village as shown below.

“The loss of a village cricket ground on which the game has been played for generations, with its attendant civilized sounds of willow on leather and polite applause, the loss of the home of the famous Marden Russets and of the green where children have played “as of right” and been entertained at times, could be seen as a significant loss of Marden’s heritage and of a community asset.

This is a sad prospect for villagers and for their children who, in more recent years, have joined the club alongside those from other areas, and can walk safely to play and spectate by right.

Ordained new housing to sustain the village could be located on already identified sites that may well be less intrusive or disruptive, and certainly less destructive of part of the village’s heritage.”

(17) Mr McFarland then said that construction of a number of new houses in the village caused real concern to the many and delight to the few. He believed that most people accepted that some new housing and new people could help the life and economy of what he described as a splendid working village. The burning question was where these developments would actually take place. Many potential sites had been ordained for new homes.

(18) The Parish Council had organised two open days during the previous weekend for villagers to look at the proposed Neighbourhood Plan. One particular exercise during this open day had encouraged villagers to place a green spot on sites where they would prefer development and red spots where not. There had not been enough space on the map to accommodate all the red spots directed at the Cricket & Hockey club ground, including the cricket field. These had, in fact outnumbered those placed elsewhere on the map.

(19) The Chairman explained that the points made by Mr McFarland could not be considered by the Panel. It could only consider whether the required legal tests had been met and could not take factors such as desirability or possible development proposals into account.

(20) Mr Frank Tipples said that he had been the Chairman of the Marden Hockey and Cricket Club until 2012. The majority of those entering the site had always done so through the gate in Stanley Road. They would therefore have seen the sign on the clubhouse, which had been erected in the 1960s. He believed that anyone who had entered the ground to watch the Club playing cricket was doing so with implied permission. He added that challenges had been made on a number of occasions as health and safety problems would have arisen if dog walkers allowed their pets to run free on the land.

(21) Mr Roger Day (landowner) said that the sign on the clubhouse had first been put up in 1962. The ground had always been secure and fenced. The stiles had been installed in order that people could retrieve the ball after it had been knocked out of the ground.

(22) Mr Day then said that the Marden Hockey and Cricket Club was a private members' club which paid to play. Money was also raised through parents paying for their youngsters to learn and practice the game. Members of the public were encouraged to watch the cricket on match days.

(23) Mr Day said that claims in the user evidence forms that people had used the ground for blackberry picking and making snowmen should be understood in the context that they would be politely asked to leave whenever they had been seen doing so. There had been instances of vandalism and hooliganism on the land which had led to this approach being adopted.

(24) Mr Day replied to a question from the Chairman by saying that there was no financial agreement between himself and the Club.

(25) Mr Davies noted that the locality had been identified as between the boundaries of Stanley Road and Albion Road and that the applicant himself agreed that this was a mistake. He asked whether this meant that the application should be automatically rejected. The Commons registration Officer replied that this was not the case and that it would be one of the issues that could be considered further at an Inquiry.

(26) Mr Pascoe asked whether the status of fee paying members of the Club had an impact on their ability to be considered as "inhabitants of a particular locality" for the purposes of Village Green registration. The Commons Registration Officer confirmed that use by fee paying members could not be considered, as their use of the site was "by right."

(27) Mr H J Craske said that he was completely discounting all development planning considerations. He considered that the application could not be determined until the question had been resolved as to how much use of the land had been "by right" and how much had been "as of right."

(28) Mrs P A V Stockell (Local Member) said that she supported the recommendations as a Public Inquiry would enable the people of Marden to have a proper opportunity to give their views and evidence. It would also ensure that the right decision was made. This would be in the best interests of the people of Marden where (regrettably) the application had led to a division of opinion.

(29) On being put to the vote, the recommendations of the Head of Regulatory Services were carried unanimously.

(30) RESOLVED that a non-statutory Public Inquiry be held into the case in order to clarify the issues.

10. Application to register land known as Rammell Field at Cranbrook as a new Village Green

(Item 4)

(1) The Panel Members visited the application site before the meeting. This visit was attended by Mr Howard Cox (the applicant) and by some 60 members of the public.

(2) The Commons Registration Officer introduced the application which had initially been made by Mr John Davis in March 2011 under section 15 of the Commons Act 2006. Mr Davis had subsequently passed responsibility for the application to Mr H Cox.

(3) The Commons Registration Officer then said that the application had been accompanied by 69 user evidence forms, a number of supporting photographs and 27 letters of support. A petition containing over 1000 signatures had also been received. This petition had been submitted with its stated aim being “in aid of our protest against the building of houses on Rammell Field in Cranbrook, Kent.” This was not a consideration that the Panel was entitled to take into account as it could only consider evidence relating to the legal tests set out in the 2006 Act.

(4) The Commons Registration Officer then said that the land was owned by the Trustees of Cranbrook School. It had been acquired in 1922 by an association known as “The Old Cranbrookians Association” to provide a memorial for those who had attended the School and had fallen in the First World War. The Governors of Cranbrook School had agreed to take the conveyance of this field and had formed the Trust in order to (amongst other things) exercise management over it.

(5) The landowner had objected to the application on the grounds that use of the field had not been “as of right” for a continuous period of 20 years up to the date of application; that use by the public had been with permission (or else by force); and that the applicant had failed to correctly specify a “locality” or “neighbourhood within a locality.” In support of these objections, the landowner had provided a letter (dated 2011) from the former School Bursar; a letter (dated 1999) from the landowner’s planning consultant to Tunbridge Wells BC; letters sent to neighbouring landowners in 1999 and 2005; and copies of letters and invoices relating to the hire of the application site for formal events.

(6) The Commons Registration Officer moved on to consideration of the legal tests. All of these tests had to be met in order for registration to take place. The first

of these was whether use of the land had been “as of right.” She explained that this meant that use would have had to have been without secrecy, force or permission. When considering whether use had been with force, it was necessary to establish not only whether physical force had been used, but also whether the landowner had taken reasonable steps to demonstrate to the public that use was being challenged.

(7) Access to the site during the qualifying period (1991 to 2011) would have been through two gates, as the rest of the boundary had been fenced. The applicants claimed that these gates had never been locked. This was denied by the landowner, who claimed that the pedestrian gate was locked during the school holidays. A letter from the former bursar (set out at Appendix E to the report) stated that he had always conducted regular checks to ensure that the gates were locked between the years 1989 and 2001.

(8) A second area of dispute concerned the notices which the landowner stated had always been on both gates (and replaced on numerous occasions.) Photographic evidence in the form of the Google “streetview” service provided by the applicant from March 2009 had confirmed that a sign was in place on the pedestrian gate during the later part of the qualifying period. The image also appeared to show a chain on the vehicular gate, suggesting that it was locked.

(9) Further evidence that public access had not been unchallenged had been provided by the landowner in the form of letters set out at Appendices F and G to the report.

(10) The Commons Registration Officer said that the evidence provided by the landowner (and indeed the applicant) indicated that the landowner had attempted to challenge use by the public, and that such use was not therefore “as of right.”

(11) The Commons Registration Officer also referred to evidence of booking forms and invoices (Appendix D) in respect of events that had taken place on the land. These documents demonstrated that on the occasions in question, use had been with permission (and therefore not “as of right.”)

(12) The Commons Registration then turned to the question of whether use of the land had been for the purposes of lawful sports and pastimes. She said that 13 of the user evidence forms had not specified the actual use of the application site. Use of the land as a short cut (stated in 2 of the forms) needed to be discounted, as such use would have been evidence of a public right of way but would not qualify as lawful sports and pastimes. Use of the land for dog walking (which had been challenged by the notices erected by the applicant) or for organised events (which had taken place with permission) could also not qualify as evidence in this respect.

(13) The Commons Registration Officer then said that 27 of the 69 user evidence forms claimed informal recreational activities that did qualify as “lawful sports and pastimes.” However, 16 of these only claimed to have done so on an occasional basis. Seven of the remaining 11 had accessed the site using garden gates onto the site. This would have been contentious as the landowner had specifically requested them not to do so; and therefore did not count as a qualifying use. Only four witnesses had actually used the land regularly on a qualifying basis.

(14) The Commons Registration Officer drew the conclusion that there had been some use of the land for lawful sports and pastimes. It remained to be established whether this use had been sufficient to pass the test. This question could now be answered with reference to the next test which was whether use had been by a significant number of inhabitants of a particular locality or neighbourhood within a locality.

(15) The Commons Registration Officer said that the applicant had specified the locality as being "The Hill, Cranbrook, jct Frythe Way, The Hill, Cranbrook, parish of Cranbrook and Sissinghurst. This would not meet the legal tests. However, the parish of Cranbrook and Sissinghurst would satisfy the locality qualification as all the witnesses lived within its boundaries.

(16) The Commons Registration Officer said that the term "significant number" meant that there had to be sufficient users to indicate to the landowner that the land was in general use by the community for informal recreation rather than occasional use by trespassers. In this case, although 69 user evidence forms had been presented, only four of them had been qualifying regular users of the application site. This meant that it was not possible to conclude that the land had been in general "as of right" use by the local community for the purposes of informal recreational activities.

(17) The final two tests were whether use of the land "as of right" had continued up to the date of the application and whether such use had taken place over twenty years or more. The first of these tests had not been met because there was convincing evidence to show that use of the site had not taken place "as of right." The second test had not been met because each of the documented formal events that had taken place would have interrupted the period of claimed informal recreational use.

(18) The Commons Registration Officer concluded by saying that she considered that the required tests for the registration of the land as a new Village Green had not been met and therefore recommended that the application should not be accepted.

(19) Mr Howard Cox (applicant) said that Rammel Field was in the hearts of the community of Cranbrook. It was notionally their Village Green. The decision to apply for Village Green status had been taken reluctantly as a result of Rammell Field being identified for development in the Local Plan.

(20) Mr Cox said that the Head Teacher of Cranbrook School had claimed that Rammell Field would be unusable for pupils at the School if the land was registered as a Village Green. He disagreed with this view, saying that Village Green status would enable the village to come together and to have a space that it could call its own for evermore. This would continue the local tradition which had seen Rammell Field host fetes, fairs, sports and other events with the full agreement of the School.

(21) Mr Cox continued by saying that the School trustees had not stated their long term plans for the land. The petition calling for houses not to be built on Rammell Field had been signed by a very large number of local people, including former pupils of Cranbrook School. He asked for the Panel's help to keep Rammel Field free for recreation.

(22) Andrew Walker QC addressed the Panel on behalf of the landowner. He said that the Commons Registration Officer had identified the facts of the case and reached the valid conclusion.

(23) Mr Walker said that the trustees considered that this was a very clear case. Many of the witnesses gave evidence of attendance at rugby matches or of use by pupils for sports. Such evidence could not be counted for the reasons given by the Commons Registration Officer. Other witnesses had attested to their use of the field for dog walking and short cuts or to events that had taken place many decades earlier. Once these statements had been taken out of the picture (as the Law required) it was clear that there had been very little qualifying use of the land.

(24) Mr Walker summarised his comments by saying that the land had not been used as of right by a significant number of people. It was possible to agree that the parish of Cranbrook and Sissinghurst was a qualifying locality. However, there were only 4 witnesses out of a population of some 7,000 whose use of the land had actually been for the purposes of regular lawful sports and pastimes. This meant Rammell Field could only be described as a school playing field, which catered for local clubs.

(25) Mr Walker then said that there would be legal reasons to prevent the School from making use of Rammell Field for the benefit of its pupils if it were to be registered as a Village Green.

(26) Mr Francis Rook (Chairman of Cranbrook and Sissinghurst PC) said that the Parish Council had supported the application based on the evidence provided. It had also taken the view that it would be very beneficial to the town of Cranbrook if the application were to succeed.

(27) Mr R A Pascoe said that the number of signatories to the petition demonstrated that a lot of people cared deeply about Rammell Field. The application had been well made. However, the evidence of the bills and letters set out in Appendix D to the report clearly demonstrated that the application could not succeed.

(28) Mr H J Craske said that Rammell Field would have been an ideal location for a Village Green. The evidence presented was sufficient to persuade him that the legal tests had not been met as the land had been used “by right” and not “as of right.”

(29) Mr J A Davies said that the application could not succeed as the evidence of the letters and bills demonstrated that use had not been “as of right.”

(30) Mr R A Pascoe moved, seconded by Mr H J Craske that the recommendation of the Head of Regulatory Services be agreed.

Carried unanimously

(31) RESOLVED that the applicant be informed that the application to register land known as Rammell Field at Cranbrook as a new Town or Village Green has not been accepted.

11. Application to register land at Bishops Field at Great Chart as a new Village Green
(Item 5)

(1) The Commons Registration Officer said that the application had been made by Ms S Williams under Section 15 of the Commons Act 2006. The land was owned by Kent County Council, which had applied to Ashford BC for outline permission for the erection of up to 14 dwellings on the site. The immediate question was therefore whether the Panel should determine the application on behalf of the County Council or refer it to the Planning Inspectorate, as provided for in the Commons Registration (England) Regulations 2008 and accompanying guidance.

(2) The Commons Registration Officer briefly outlined the application itself. The site in question was a piece of land of some 1.4 acres situated next to a cul-de-sac known as Bishops Green in the Singleton area of the Great Chart with Singleton Parish. The land had been open until a notice was put up stating "*Public Notice Kent County Council property Land off Long Acre Road Ashford. The public may access this site for recreational purposes only they do so at their own risk. Permission may be revoked at any time.*" The date given by the landowners for the erection of the sign was August 2009.

(3) Mr J N Wedgbury (Local Member) asked the Panel to note that he did not agree that the sign had been put up in 2009. He said that he had personally been present when KCC Property had put up the fencing and notice in 2010.

(4) The Commons Registration Officer said that Mr Wedgbury's contribution was further confirmation that there were areas of dispute between the applicants and the landowner. In response to such circumstances, DEFRA's guidance was that an application had to be referred to the Planning Inspectorate when "the registration authority has an interest in the outcome of the application or proposal such that there is unlikely to be confidence in the authority's ability impartially to determine it."

(5) The Commons Registration Officer then said that a previous Panel meeting had taken a decision to refer the Village Green application at Long Field in Cranbrook to the Planning Inspectorate in broadly similar circumstances. As this was an option available to the County Council, she had consulted both interested parties. The Landowner had objected very strongly to the proposed reference to the Planning Inspectorate. The applicant, on the other hand had given her view that the County Council had a direct interest and that the application could only be considered objectively by the Planning Inspectorate.

(6) The Commons Registration concluded her presentation by saying that the circumstances of the case were those envisaged by DEFRA when it had drafted the regulations and issued its guidance. The strong views of the applicant needed to be taken into account and she was therefore recommending reference to the Planning Inspectorate. In the event that the Panel decided not to do so, the application would be reported to the Panel in the Autumn.

(7) Mr R A Pascoe moved, seconded by Mr H J Craske that that the recommendations of the Head of Regulatory Services be agreed.

Carried Unanimously

(8) RESOLVED that the application be referred to the Planning Inspectorate for determination.

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Wantsum Room, Sessions House, County Hall, Maidstone on Wednesday, 30 January 2013.

PRESENT: Mr M J Harrison (Chairman), Mr R E Brookbank, Mr S J G Koowaree, Mr C P Smith and Mrs P A V Stockell (Substitute for Mr P W A Lake)

IN ATTENDANCE: Ms C Fenton (Learning Disability and Mental Health Officer), Ms C Brodie (Practice Support Manager), Ms M Brown (Administration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

1. Minutes of the Panel meeting held on 27 January 2012 (for Information) *(Item 3)*

The Minutes of the meeting held on 27 January 2012 were noted, having been previously approved at the Regulation Committee meeting on 15 May 2012.

2. The Local Authority's Guardianship Register *(Item 4)*

(1) The Learning Disability and Mental Health Officer reported that the Officer Working Party had met 6 times over the previous year to oversee the cases of every service user on the Guardianship Register and advise Approved Mental Health Professionals in relation to grounds for renewal of Guardianship Orders. This Working Party consisted of three officers from KCC Families and Social Care and two co-opted independent members.

(2) The Learning Disability and Mental Health Office said that there had been 48 names on the Guardianship Register in 2009 and that this figure had now been reduced to 9 (including the closing of 4 cases since the papers had been published.)

(3) The Learning Disability and Mental Health Officer said that it was the Administration Officer's role to both keep the Guardianship Register and to provide the Department of Health with precise data on those subject to Guardianship on an annual basis.

(4) The Learning Disability and Mental Health Officer reported that the Officer Working Party had ensured that a proper audit trail was followed whenever Guardianship was invoked. This encouraged best practice and ensured that a positive decision was taken to remove an individual from the register rather than simply allowing the order to lapse. Each order had to be reviewed every six months over the first year and every twelve months after that.

(5) The Practice Support Manager was reviewing the Information Leaflet for service users, nearest relatives and carers to improve clarity and develop understanding.

(6) The Learning Disability and Mental Health officer concluded her presentation by saying that robust processes were in place for the review and quality assurance of all aspects of Guardianship Orders. She anticipated that these processes would continue to improve.

(7) RESOLVED that the content of the report be noted together with the lists of closed cases since January 2012 and the current guardianship register set out in the Appendices to the report.

The Growth and Infrastructure Act 2013 and its impact on Village Green applications

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee on Tuesday 18th May 2013.

Recommendation:

I recommend that Members receive this report

Introduction

1. The Growth and Infrastructure Act 2013 ("the Act") was introduced into Parliament on 18th October 2013, with the primary aim of promoting growth and facilitating the provision of infrastructure by amending various planning and consenting processes so as to remove unnecessary bureaucracy and thereby reduce the lengthy delays that can sometimes affect the delivery of such developments.
2. The Act contains several provisions that relate directly to, and significantly impact upon, the manner in which the County Council is able to deal with Village Green applications. Those provisions have been introduced partly as a result of a consultation undertaken by DEFRA last year in relation to proposed amendments to the system of registration of new Village Greens. Member will be aware that Village Green status confers significant statutory protection¹ on land and places significant restrictions on its future use, thus making it almost impossible for such land to be developed². The reforms were therefore proposed in response to growing concerns regarding the volume, nature, cost and impact of Village Green applications and the perceived misuse of the legislation (i.e. vexatious applications being made to deliberately delay or altogether thwart development schemes). In turn, they seek to achieve an improved balance between protecting valuable open space and enabling development to occur.
3. The Act received royal assent on 25th April 2013 and introduces three key changes to the legislation, namely:
 - A restriction on the right to apply for Village Green status;
 - A shortening of the period of grace during which applications can be made; and
 - Landowner statements.
 The restriction on the right to apply took effect immediately, whilst the other changes will be introduced separately later this year.

A restriction on the right to apply

4. Section 16 of the Act will amend the law on the registration of new Village Greens by inserting new provisions into the Commons Act 2006 (section 15(c) and Schedule 1A)

¹ Under section 12 of the Inclosure Act 1857, it is a criminal offence to undertake any act which interrupts the use or enjoyment of the green as a place for exercise and recreation. Section 29 of the Commons Act 1876 makes it a public nuisance to encroach, enclose or erect structures on a green. Both offences can be prosecuted in the Magistrates' Court.

² The only way in which such land can be developed is for the landowner to go through a lengthy and costly application (the outcome of which is not guaranteed) under section 16 of the Commons Act 2006 to exchange the Village Green land for an equally suitable piece of land nearby.

which remove the right to apply under certain circumstances. As a result, it is now no longer possible to make a Village Green application where planning permission for the same land is pending or has been granted, or where the land has been identified for potential development in local or neighbourhood plans. The full list of exclusions, known as 'trigger events', is listed at **Appendix A** to this report. Where a 'trigger event' has occurred in relation to a piece of land then, subject to the next paragraph, it will not be possible to make an application to register that land as a new Village Green.

5. However, the right to apply will again become exercisable if a corresponding 'terminating event' (also listed at **Appendix A**) has taken place. This provision is intended to overcome situations where, for example, a planning application is made but refused. If there were no 'terminating events', then the land would become permanently immune from Village Green application.
6. In practical terms, this means that before formally accepting an application, the County Council must write to all of the relevant planning authorities (normally the District Council, the County Council's Planning Applications team and the Planning Inspectorate) to ensure that no 'trigger events' have taken place in relation to the land. If they have, and no corresponding 'terminating event' has taken place, then the County Council will not be able to accept the application and it, along with all of the accompanying documentation, will be returned to the applicant.
7. A copy of DEFRA's guidance regarding the restriction on the right to apply is available at: <https://www.gov.uk/town-and-village-greens-how-to-register>

A shortening of the period of grace

8. Under the current provisions, where a landowner challenges recreational use (e.g. by erecting a fence to deny access to the land or a notice prohibiting use) an application has a two year period of grace during which to make an application to register the land as a Village Green. If the application is not made within this period, it will automatically fail.
9. Section 14 of the Act amends the existing legislation to shorten the period of grace to one year. This means that, when this provision comes into force, applicants will need to submit their applications much quicker to ensure that the application is made within the period of grace.

Landowner statements

10. Finally, section 15 of the Act introduces a system whereby landowners can deposit a statement and plan which will bring to an end any use of their land 'as of right' (which is one of the key elements for success for a Village Green application). A similar system is already in place in respect of Public Rights of Way, but there is currently no equivalent for Village Greens.
11. This reform, which is expected to come into force later this year, will enable landowners to prevent permanent rights from being acquired over their land without the costly burden of having to erect fencing or notices to restrict or prevent access. It will also enable local people to continue to enjoy the land for recreational purposes

(until such time as it becomes required for use by the landowner) whilst preventing a Village Green application from being made in the future.

Conclusions

12. The new provisions will undoubtedly have an impact upon the number of Village Green applications which the County Council is able to consider and the workload in this respect is likely to reduce. However, the system of landowner statements will create new and additional work, and the workload is therefore likely to shift to accommodate these additional burdens.

Recommendation

13. I recommend that Members receive this report.

Background documents:

Appendix A – List of ‘trigger’ and ‘terminating’ events

Contact Officer:

Melanie McNeir

Public Rights of Way and Commons Registration Officer

Tel: 01622 221628

Annex C - Schedule 1A of the Commons Act 2006 (inserted by section 16(2) of the Growth and Infrastructure Act 2013)

| Trigger events | Terminating events |
|---|--|
| 1. An application for planning permission in relation to the land which would be determined under section 70 of the 1990 Act is first publicised in accordance with requirements imposed by a development order by virtue of section 65(1) of that Act. | <p>(a) The application is withdrawn.</p> <p>(b) A decision to decline to determine the application is made under section 70A of the 1990 Act.</p> <p>(c) In circumstances where planning permission is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.</p> <p>(d) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.</p> |
| 2. An application for planning permission made in relation to the land under section 293A of the 1990 Act is first publicised in accordance with subsection (8) of that section. | <p>(a) The application is withdrawn.</p> <p>(b) In circumstances where planning permission is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.</p> <p>(c) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.</p> |
| 3. A draft of a development plan document which identifies the land for potential development is published for consultation in accordance with regulations under section 17(7) of the 2004 Act. | <p>(a) The document is withdrawn under section 22(1) of the 2004 Act.</p> <p>(b) The document is adopted under section 23(2) or (3) of that Act (but see paragraph 4 of this Table).</p> |
| 4. A development plan document which identifies the land for potential development is adopted under section 23(2) or (3) of the 2004 | <p>(a) The document is revoked under section 25 of the 2004 Act.</p> <p>(b) A policy contained in the document which</p> |

| | |
|---|---|
| Act. | relates to the development of the land in question is superseded by another policy by virtue of section 38(5) of that Act. |
| 5. A proposal for a neighbourhood development plan which identifies the land for potential development is published by a local planning authority for consultation in accordance with regulations under paragraph 4(1) of Schedule 4B to the 1990 Act as it applies by virtue of section 38A(3) of the 2004 Act. | <p>(a) The proposal is withdrawn under paragraph 2(1) of Schedule 4B to the 1990 Act (as it applies by virtue of section 38A(3) of the 2004 Act).</p> <p>(b) The plan is made under section 38A of that Act (but see paragraph 6 of this Table).</p> |
| 6. A neighbourhood development plan which identifies the land for potential development is made under section 38A of the 2004 Act. | <p>(a) The plan ceases to have effect.</p> <p>(b) The plan is revoked under section 61M of the 1990 Act (as it applies by virtue of section 38C(2) of the 2004 Act).</p> <p>(c) A policy contained in the plan which relates to the development of the land in question is superseded by another policy by virtue of section 38(5) of that Act.</p> |
| 7. A development plan for the purposes of section 27 or 54 of the 1990 Act, or anything treated as contained in such a plan by virtue of Schedule 8 to the 2004 Act, continues to have effect (by virtue of that Schedule) on the commencement of section 14 of the Growth and Infrastructure Act 2013 and identifies the land for potential development. | The plan ceases to have effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act. |
| 8. A proposed application for an order granting development consent under section 114 of the 2008 Act in relation to the land is first publicised in accordance with section 48 of that Act. | <p>(a) The period of two years beginning with the day of publication expires.</p> <p>(b) The application is publicised under section 56(7) of the 2008 Act (but see paragraph 9 of this Table).</p> |
| 9. An application for such an order in relation to the land is first publicised in accordance with section 56(7) of the 2008 Act. | <p>(a) The application is withdrawn.</p> <p>(b) In circumstances where the application is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.</p> <p>(c) In circumstances where an order granting development consent in relation to the land is made, the period within which the development</p> |

| | |
|--|---|
| | to which the consent relates must be begun expires without the development having been begun. |
|--|---|

Interpretation

In this Schedule –

“the 1990 Act” means the Town and Country Planning Act 1990;

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004; and

“the 2008 Act” means the Planning Act 2008.

Notes

1 For the purposes of this Schedule, all means of challenging a decision in legal proceedings in the United Kingdom are to be treated as exhausted and the decision is to be treated as upheld if, at any stage in the proceedings, the time normally allowed for the making of an appeal or further appeal or the taking of any other step to challenge the decision expires without the appeal having been made or (as the case may be) the other step having been taken.

2 Paragraph 7 of the first column of the Table does not apply in relation to a part of a development plan for the purposes of section 27 or 54 of the 1990 Act which consists of—

- (a) Part 1 of a unitary development plan or alterations to such a Part, or
- (b) a structure plan or alterations to such a plan.

Update from the Commons Registration Team

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee on Tuesday 18th May 2013.

Recommendation:

I recommend that Members receive this report

Progress with Village Green applications

1. Members have requested that a summary of the current position of applications to register Town and Village Greens be provided at meetings of the Regulation Committee. A copy of the Schedule of Village Green applications is therefore attached at **Appendix A**.
2. So far this year, 11 such cases have been considered at four separate Regulation Committee Member Panel meetings held between January and March, which resulted in the registration of five new Village Green.
3. One case has been referred to the Planning Inspectorate for determination (due to the County Council's interest in the outcome of the application as both landowner and prospective developer) but it is not yet known how the Inspectorate intends to deal with this matter.
4. Five Public Inquiries are due to take place by the end of the year in relation to applications at Canterbury (details TBC), New Romney (commencing on 15th July 2013), Hythe (commencing on 23rd July 2013), Marden (details TBC) and Westgate (details TBC).
5. There are currently 19 applications awaiting determination, of which 16 are currently under investigation. A number of cases are ready to be referred to Member Panel for decision in the coming months and, given the greatly reduced backlog, Officers now aim to begin work on all applications received within three months from the date of receipt.

Recent legislative changes

6. Members will be aware that the Growth and Infrastructure Act 2013 has now received royal assent. The Act introduces a number of significant reforms to the current system of Village Green registration which are discussed in more detail in a separate report.

Recommendation

7. I RECOMMEND Members receive this report

Background documents:

Appendix A – Schedule of Village Green applications

Contact Officer:

Melanie McNeir

Public Rights of Way and Commons Registration Officer

Tel: 01622 221628

APPENDIX A:
Schedule of Village Green applications

**Applications resolved by the Regulation Committee (Member Panel)
since last report (22nd January 2013)**

| Description | Parish | Member(s) | Outcome |
|---------------------------------|---------------|---------------------------------|---|
| Land at Woodland Road | Lyminge | Ms. S. Carey | ACCEPTED on 19/02/13 (registered as VG268) |
| Land at Mount Pleasant | Hildenborough | Mrs. V. Dagger | ACCEPTED on 19/02/13 (registered as VG267) |
| Grasmere Pastures at Whitstable | Whitstable | Mr. M. Harrison Mr. M. Dance | REJECTED on 26/02/13 |
| Rammell Field | Cranbrook | Mr. S. Holden | REJECTED on 26/02/13 |

Forthcoming Public Inquiries

| Description | Parish | Member(s) | Details |
|--|---------------|------------------|--|
| Chaucer Field (at the University of Kent campus) | Canterbury | Mr. G. Gibbens | Awaiting Inspector's report re: preliminary issue |
| Seaton Meadow | Wickhambreaux | Mr. M. Northey | Awaiting Inspector's report |
| Land at Cockreed Lane | New Romney | Mr. D. Baker | Commences 15 th July 2013 at Assembly Halls, NR |
| Land known as Fisherman's Beach | Hythe | Mr. M. Whybrow | Commences 23 rd July 2013 at Hythe Town Hall |
| The Cricket Field | Marden | Mrs. P. Stockell | Details TBC |
| Land at Ursuline Drive | Westgate | Mr. J. Elenor | Details TBC |

Outstanding applications to be resolved

| Description | Parish | Member(s) | Status |
|-----------------------------|-----------------|----------------------------------|--|
| The Downs | Herne Bay | Mr. N. Bond Mr. B. MacDowall | Public Inquiry held and report received, now awaiting further legal advice |
| The Glebe Field | Goudhurst | Mr. A. King | Under investigation |
| Land at Bishop's Green | Great Chart | Mr. D. Smyth | Referred to the Planning Inspectorate for determination |
| Folkestone Racecourse | Stanford | Ms. S. Carey | Under investigation |
| Riverside Close | Kingsnorth | Mr. M. Angell | Under investigation |
| Land at Showfields | Tunbridge Wells | Mr. J. Scholes | Under investigation |
| Kingsmead Recreation Ground | Canterbury | Mr. G. Gibbens | Under investigation |
| Land at South View Road | Tunbridge Wells | Mr. P. Oakford | Under investigation |
| Land at Coldblow Woods | Ripple | Mr. S. Manion | Under investigation |
| Land at Grasmere Road | Ashford | Mr. J. Wedgbury | Under investigation |
| Land at Montefiore Woodland | Ramsgate | Mr. A. Terry Ms. Z. Wiltshire | Awaiting investigation |
| Land at The List | Littlebourne | Mr. M. Northey | Awaiting investigation |
| Land at Masefield Way | Tonbridge | Mr. R. Long Mr. C. Smith | Awaiting investigation |

Update on Planning Enforcement Issues

Item 7

Report by Head of Planning Applications Group to the Regulation Committee on 18th June 2013.

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 22nd January 2013 Regulation Committee. The needs of Members new to the Committee have been taken into account, with in particular an expanded section on Meeting Enforcement Objectives, from paragraph 6 onwards.
2. Summary schedules of all current cases have been produced (see Appendices 1, 2 and 3). They cover alleged unauthorised breaches of planning control and those occurring on permitted sites, primarily waste-related. The emphasis is on live and active cases along with those resolved between Meetings. Cases resolved or sufficiently progressed to be removed from our immediate workload, are highlighted in bold.

Report Format

3. The report follows a well-rehearsed and settled format (introduced in May 2008), developed through the suggestions of Members and in particular from the Chairman of the Committee. The search was for a 'user-friendly' and efficient way within which to inform Members of the essential facts of a series of involved cases. Enforcement strategies could then more easily be discussed, supported and agreed, whatever their level of complexity.
4. Central to this approach is the summarising of cases in 'schedule' form; as attached to this current report. They 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 / issues of interest and requests by Members
5. 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. New Members may also request individual briefings on existing sites within their area. The report continues to give details of general site monitoring and progress on chargeable monitoring for minerals development.

Meeting Enforcement Objectives

Overview

6. Planning enforcement is a high-profile County Council function. It underpins the Development Management service within the Planning Applications Group. Available powers and controls run with the land and in turn derive from statute. The type and degree of action is discretionary (with some qualifications), allowing a flexible and proportionate approach to cases.
7. Each case in turn, has to be considered on its own individual merits. Indeed, it may be expedient not to act or to refer the case to another regulatory body. However, such a decision has to be properly considered and robust enough to withstand scrutiny by the Local Government Ombudsman. Addressing planning enforcement problems is not an optional activity for Local Planning Authorities. There is a high Member and public expectation for this authority to act in a seamless way with allied enforcement agencies. Judges may further direct that enforcement action is taken by a Planning Authority, introducing a level of compulsion in individual cases. In short, it is the degree of intervention that is discretionary, which may on occasion be minimal. Checks and balances ensure that planning authorities are unable to simply side-step difficult enforcement problems.

Enforcement Protocols

8. The County Council operates an internal and external set of protocols, concerning the conduct of its enforcement business. Resources within the Group are targeted in accordance with these protocols, towards 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.
9. Formal action is only taken as a last resort, in the full context of the case. Mixed-use sites, under our main (external) Enforcement Protocol and through recent case-law, fall to the respective District Council to deal with.

Policy Position

10. National Planning Policy has been 'streamlined', including the removal of 'PPG 18 Enforcing Planning Control' guidance. In anticipation of this loss of guidance, I have inserted a draft ('enabling') enforcement policy into the emerging Minerals & Waste Local Plan. That if approved would allow a local version of the former government guidance to be incorporated into our existing protocols.

Enforcement Imperative

11. The imperative in strategic planning enforcement terms is to ensure that the breach (or breaches) and any further damage to the environment are stopped at the first opportunity. 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.

12. Firstly, there is the need at any given point to switch resources from protracted restoration cases to the urgent protection of land from new alleged contraveners. The other reason is that we do not have immediate call on prosecution powers. Those are only usually available once earlier enforcement action has been exhausted and the contravention still remains.
13. Reluctant contraveners / landowners, with little funding, equipment or expertise have to be cajoled into restoring sites largely through 'out of court' means, including attentive monitoring. 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 determination and commitment 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.

Restoration Objectives

14. 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. That typically involves the removal off site of imported waste materials. However, often there are highway limitations in seeking such removal 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 in the process. This can often involve the retention either of all material on site or part removal of the imported spoil, leaving the remainder to be spread and levelled to best effect given the circumstances of the site and its surroundings. The Woodgers Wharf case at Upchurch (see Schedule 1, No.8) illustrates very well such restoration dilemmas.

Operational Shift

15. I have previously advised Members' of an apparent operational shift from traditional unauthorised types of cases requiring overt action, to more compliance-based work involving already permitted sites. These tend to be within the waste management field and may usually be addressed through means of retrospective planning applications. Between the two are those activities with limited, district or no planning permissions in place but which display sufficient planning merit to warrant a retrospective approach. There is a non-negotiable requirement however, for pre-existing breaches to be held in tight check, pending the outcome of any application.
16. The Government encourages this approach, which acknowledges the needs of business but also seeks to ensure an equal and compliant 'playing field' for all businesses to operate within. Non-compliant operators are in that way prevented from gaining an unfair competitive advantage.

Wider Group Involvement

17. It is true that retrospective planning applications are by definition '*after the event*' but targeted and more frequent site monitoring will help to reduce the number. Site monitoring, guided in particular by a good understanding of new surges and trends within

the waste management field, is a useful way to focus the broad compliance efforts of officers.

18. The wider Planning Applications Group is becoming more engaged in planning compliance work. The aim is to help broaden the experience of our planning officers and in doing so, usefully increase our enforcement capacity. This becomes particularly important when a firm line is needed to ensure that retrospective planning applications are not wrongly used to deflect attention from a continuing breach. The initiative in such cases must always reside with officers and this Committee. In no way must it be left in the hands of any errant party.

Co-ordinating and Advisory Role

19. Within the two main workload streams (i.e. set-piece enforcement actions and more mainstream compliance monitoring), I am also continuing to offer advice on a number of district enforcement cases. That includes case strategies, project management and guidance on the wider controls and powers available. County Officers have been adopting for some time a supportive role, acting in a co-ordinating capacity where appropriate. That may often be 'behind the scenes' but such interventions are no less influential.

Case focus

20. Since the last Meeting resources have been focussed on 5 sites where formal enforcement action has been taken, 1 major case where investigations are underway and a further 6 cases that have been satisfactorily progressed.

Achievements / Successes [including measurable progress on sites]

Effective completion of some major cases

21. Several longstanding cases have been brought to an effective and welcome close. Foremost among these is the restoration of Shaw Grange, Charing (Schedule 1, No.1), which Members visited on 26th March 2013.
22. Four Gun Field, Upchurch (Schedule 1, No.7), has an apparent planning solution in place and all matters now lie with Swale Borough Council.
23. Red Lion Wharf, Northfleet (Schedule 2, No.1), is again close to completion, with a large proportion of the errant stockpile of waste wood, shredded and removed off site for beneficial use elsewhere.
24. Recent progress towards completion in each of the above cases is the culmination of years of sustained and intense enforcement work.

New Cases, especially those requiring action / Member support

25. No new substantiated County Matter cases have arisen since the last Meeting.

Significant on-going cases

26. I would refer Members to the 'Achievements' section under paragraph 21 to 24 above, which highlights some conclusive work on a number of very significant and complex cases.

27. The advantage of clearing major cases is in its release of more specialist enforcement time for wider initiatives such as supporting the operational shift to increased enforcement awareness and capacity within the Group (see paragraphs 17 and 18 above) and for more interlinking work with District Councils, Medway Council Unitary and the Environment Agency.

Other cases / issues of interest and requests from Members

28. I would refer Members to the extended section on 'Meeting Enforcement Objectives' between paragraphs 6 to 20 of this report, concerning workload shifts, the wider involvement of the Planning Applications Group within general planning compliance and a growing advisory and co-ordinating role in complex multi-agency cases.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

29. In addition to our general visits to sites as a result of planning application work, we also undertake routine visits to formally monitor them. Since the last Regulation Committee, we have made a further 28 chargeable monitoring visits to mineral and waste sites and 5 non-chargeable visits to sites not falling within the chargeable monitoring regime. This shows a sustained number of visits and related income over this period.

Resolved or mainly resolved cases requiring monitoring

30. Alongside the chargeable monitoring regime there is a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to recur. That accounts for a significant and long-established pattern of high frequency site monitoring.

31. Cases are periodically removed to make way for others when the situation on site has been stabilised; restoration (or acceptable restoration) has been achieved, a district or Environment Agency (EA) remit confirmed (or with action being a realistic possibility by them). Another occasion is where a planning application would address the various issues and there is the realistic prospect of one being submitted. Cases then go onto a 'reserve' data base, with an in-built monitoring commitment; ready to be returned to the Committee's agenda should further enforcement issues emerge or a positive planning

solution becomes available. Examples this time are Larkey Wood, Chartham (see Schedule 1, No.2) and Red Lion Wharf (Schedule 2, No.1).

32. There is a running list of sites which fall within this category, against which priorities are drawn and enforcement monitoring checks are made. The frequency is usually high but may vary according to the site under surveillance.

Conclusion

33. This report reveals some positive trends. Several high-profile cases have been brought to a conclusion (or very nearly). The operational shift from costly set-piece enforcement actions, to more application-based approaches is becoming more the norm. This trend reflects in part the current economic climate but also efforts towards a tighter enforcement regime. We share this drive to compliance with our District and Unitary counterparts and the Environment Agency. The aim is a seamless array of enforcement powers trained on the more persistent and determined contraveners within the County. Closer collaboration and joint action is the key to more successful and cost effective protection of local residential amenity and the environment.

Recommendation

34. I RECOMMEND that MEMBERS:

- (i) ENDORSE the actions taken or contemplated on the respective cases set out in paragraphs 6 to 32 above and those contained within Schedules / Appendices 1, 2 and 3.

Case Officer: Robin Gregory

01622 221067

Background Documents: see heading

Active Enforcement Cases

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 | <p>Ashford</p> <p>DC3/AS/03/COMP/0090 Shaw Grange, Charing</p> <p>(Member: Charlie Simkins)</p> | Previous multiple breaching of landfill permissions, Enforcement Notices and High Court Injunctions. | To secure restoration of the site in the public interest. | The site has now been restored and is being monitored and maintained. | The site was inspected by Members on 26 th March 2013, in its restored state. Landscaping remains but I propose for now to remove from these schedules. |
| 2 | <p>Canterbury</p> <p>DC3/CA/03/COMP/0053 Larkey Wood Farm, Chartham</p> <p>(Member: John Simmonds)</p> | Apparent unauthorised waste-related activities on site. | This site is subject to a confirmed Enforcement Notice, prohibiting the importation, stockpiling and storage of waste materials and the presence of a soil-screener on site. The Notice is underwritten by County Court Injunctions and a County Court Control Order. | <p>Compliance was reached with the Enforcement Notice in late 2009, following a staged site-recovery plan.</p> <p>Regrettably, this has started to slip again, with stockpiles of waste wood, soils and hardcore appearing on site.</p> | The aim is to have the site returned to the way it was left in 2009. The preferred means is by active monitoring. However, the reticence of the owner / occupier means that we may need to access available powers. The case is subject to an Exempt Report as Item 9. |

| | <u>Site & Case Reference</u> | <u>Alleged Breach</u> | <u>Objectives / Actions</u> | <u>Progress</u> | <u>Notes / Remarks</u> |
|---|---|---|--|--|---|
| 3 | <p>Dartford</p> <p>KCC/DA/0123/12 LanceBox Ltd Plot 14 Manor Way Business Park, Swanscombe</p> <p>(Member: Peter Harman)</p> | Alleged receipt, storage and processing of construction / demolition waste, including wood waste. | <p>A ‘4-point’ plan has been devised, in return for KCC reserving enforcement action. The terms include:</p> <ul style="list-style-type: none"> a) Withdrawal of a Lawful Use Application (LDC) b) Submission of delayed planning application; c) Continued trading only under tight KCC / EA interim controls. d) Reduction of stockpiles / ‘stand-off’ distance from adjoining chalk cliff face. | <p>Concerning the ‘4-point - plan’: the LDC has been withdrawn; the planning application has been progressed through a series of consultant reports, which are now being drawn together but submission is still awaited; trading has continued under interim controls and the stockpile of wood has been removed. .</p> <p>I am currently monitoring the site to evidential standard on a monthly basis, combining as necessary with the EA.</p> | <p>Finalisation of the outstanding draft planning application is now long overdue. I am therefore actively pursuing submission.</p> <p>In the meanwhile, I would seek Members continued support for the taking of enforcement action on a contingency basis. That would include the serving of an Enforcement Notice; underwritten if necessary by a County / High Court Injunction.</p> <p>I would confirm however, that I currently receiving no complaints.</p> |

| | <u>Site & Case Reference</u> | <u>Alleged Breach</u> | <u>Objectives / Actions</u> | <u>Progress</u> | <u>Notes / Remarks</u> |
|---|--|--|---|---|--|
| 4 | <p>Shepway</p> <p>DC3/SH/10/COMP/A02 Keith Cornell Waste Paper Ltd, Lympe Industrial Park, Lympe</p> <p>(Member: Ms Susan Carey)</p> | <p>Alleged unauthorised waste-related recycling use on industrial land, resulting in noise complaints and related disturbance to local residents.</p> | <p>To achieve a reduction in the current amenity impacts through voluntary restraint, pending the outcome of an application for retention of the use.</p> | <p>The business of the applicant went into receivership in 2012. This resulted in the removal of the breach and any previous amenity impacts.</p> <p>The site has since been sublet to a local business created by former employees. However, this in turn has ceased to trade.</p> | <p>Planning jurisdiction for this vacant unit has now returned to Shepway District Council.</p> <p>I shall therefore remove from these schedules.</p> |
| 5 | <p>KCC/SH/0323/2012 [DC3/SH/12] Cube Metal Recycling Unit A Highfield Industrial Estate Folkestone</p> <p>(Member: Bob Neaves)</p> | <p>This site was brought to the attention of KCC by Kent Police and the Environment Agency (EA).</p> <p>Its operation consists of the importation, sorting and processing of scrap metals, for later despatch.</p> | <p>To achieve planning compliance and supportive control through an EA Permit.</p> | <p>A retrospective planning application is being processed.</p> | <p>I shall continue to monitor the situation in the meanwhile.</p> |

| | <u>Site & Case Reference</u> | <u>Alleged Breach</u> | <u>Objectives / Actions</u> | <u>Progress</u> | <u>Notes / Remarks</u> |
|---|--|--|--|---|--|
| 6 | <p>Swale</p> <p>KCC/SW/0136/12 Sheerness Recycling Ltd Unit 34 Klondyke Ind Est Queenborough</p> <p>(Member: Angela Harrison)</p> | Alleged importation of construction and demolition spoil, with mechanical screening. | <p>To exact compliance and planning control.</p> <p>On the evidence I have seen, I remain unconvinced on any lawful use arguments.</p> | <p>Agreement has been reached with the operator for withdrawal of the Lawful Use application, in favour of a retrospective planning application.</p> <p>Pre-application advice has been sought and given.</p> | The required planning application is now awaited. However, as a contingency , I would seek Member's continued support for the service of an Enforcement Notice should that become necessary. |
| 7 | <p>DC3/SW/04/COMP/0059 Four Gun Field, Upchurch</p> <p>(Member: Mike Baldock)</p> | Alleged waste activities on a former brickfield site with an associated lawful use. | To ensure that no waste-related use is carried out on site, particularly given its sensitivity close to housing. | <p>Following the exhaustion of planning and High Court Appeals, the terms of the County Council's Enforcement Notice were eventually complied with.</p> <p>A planning application has since been submitted to Swale B.C. for mixed-housing development and public open space.</p> | <p>Outline planning permission has now been granted by Swale BC, in part in substitution for the problematic Lawful Use Certificates. A return to a normal quality of life now seems within the grasp of neighbouring residents.</p> <p>I now propose to remove from these schedules.</p> |

| | <u>Site & Case Reference</u> | <u>Alleged Breach</u> | <u>Objectives / Actions</u> | <u>Progress</u> | <u>Notes / Remarks</u> |
|---|--|---|--|---|---|
| 8 | SW/05/COMP/0016 Woodgers Wharf, Horsham Lane, Upchurch (Member: Mike Baldock) | Unauthorised use of marine wharf for screening and crushing of imported concrete beams and alleged related waste management breaches. | <p>To arrest the alleged breaches and return the site to its lawful wharf-related use.</p> <p>A County Council confirmed Enforcement Notice (EN) requires restoration of the site, largely through the direct removal of the central stockpile of concrete beams.</p> <p>Crushing of the greater quantity of waste beams for sale to the open market is prohibited under the EN.</p> | <p>Potential sea defence contracts offered the prospect of complete removal by barge. However, the contracts have failed to materialise.</p> <p>Independent advice organised by the County Council through Remade South-East, has similarly failed to find alternative outlets for removal of the beams as they stand.</p> <p>In all the circumstances, negotiation has now switched to active pursuit of an 'on-site' solution i.e. using the beams in whole, broken or in a highly specified crushed form to create a hard-surface platform, ready for a beneficial after-use such as the parking of boats.</p> | <p>An 'on-site' solution would ensure that any amenity impacts arising from 'off-site' haulage were avoided. This represents a potentially sustainable solution, within the spirit and purpose of the National Planning Policy Framework. Subject in this case, to nature conservation interests being adequately safeguarded.</p> <p>Regrettably however, the owner / occupier has recently deceased.</p> <p>Nevertheless, discussions are continuing in a positive way with the family's planning consultant. Helpfully, commitment towards an urgent resolution on site remains.</p> |

| | <u>Site & Case Reference</u> | <u>Alleged Breach</u> | <u>Objectives / Actions</u> | <u>Progress</u> | <u>Notes / Remarks</u> |
|---|---|---|--|---|--|
| 9 | <p>DC3/SW/04/COMP/0049 Raspberry Hill Park Farm, Iwade</p> <p>(Members: Lee Burgess & Roger Truelove)</p> | <p>Unauthorised importation, burning and depositing of mixed construction spoil, stationing of mobile homes and haulage distribution use on the waste deposit</p> | <p>KCC and Swale BC's 3 Enforcement Notices were upheld on Appeal. They require the unauthorised uses to be removed from the site, within given timescales, which have since expired.</p> <p>Restoration of the deposited material has been pursued but complications have arisen. Key site personnel are in custody and there is a Court Restraining Order, preventing removal of potential further evidence from the land.</p> | <p>I am reporting this case again to Committee, in the prospect of a different approach to restoration of the County Council interest in the site.</p> <p>Swale BC has an application for 5 gypsy / traveller caravans and 1 touring caravan. This effectively covers the area the subject of KCC's Enforcement Notice.</p> <p>New owner / occupation has led to constructive negotiations between their representatives and the Borough and County Planning Authorities.</p> <p>Former unauthorised land- raising has already been reduced, representing a significant move forward in the case.</p> | <p>Swale BC has invited the County Council's view on the current planning application. The line I have taken is a pragmatic one.</p> <p>Levelling, ground preparation and the construction of multiple caravan pitches, with associated surfacing and circulation spaces, could be argued to represent an alternative, though no less exacting form of restoration than that envisaged under our own Enforcement Notice.</p> <p>A tightly specified scheme with planning conditions could well offer a more precise and controllable solution to the site, than the generic steps within the Notice.</p> <p>I shall keep Members informed of this encouraging turn of events.</p> |

Schedule 2: Alleged breaches on Permitted Minerals & Waste Sites

Appendix 2

| | <u>Site & Case Reference</u> | <u>Alleged Breach</u> | <u>Objectives / Actions</u> | <u>Progress</u> | <u>Notes / Remarks</u> |
|---|--|--|---|---|--|
| 1 | <p>Gravesham</p> <p>DC3/GR/COMP/0013 Red Lion Wharf Crete Hall Road Northfleet</p> <p>(Members: Sue Howes & Narinderjit Thandi)</p> | Importation of waste wood, stockpiling and shredding. | To cease importation and secure removal of the high residual stockpile of waste wood. | A three year temporary permission (with associated S106 Agreement) has secured near removal of all waste wood on site. | I shall monitor the site to completion and report back to Members when full compliance is reached. |
| 2 | <p>Tunbridge Wells</p> <p>DC3/TW/12 CLC Construction Ltd Westdene Five Oaks Green</p> <p>(Member: Alex King MBE)</p> | <p>Material change of use from a former scrapyard to the servicing of utility contracts, with the stockpiling of spoil on site and the exchange of material between jobs, with the remainder being sent for processing and alternative re-use.</p> <p>The site is within the countryside and the Metropolitan Green Belt. It is also close to housing.</p> | <p>To control the level of use on the site pending the outcome of the current retrospective planning application.</p> <p>The stockpile having grown in height is restricted in the interim to the height of the lorry cab of the vehicles bringing the material to the site. That is clear to all parties and very visibly enforceable.</p> | A retrospective planning application is still being processed. However, the applicants have been advised to withdraw the crushing and screening elements and seek a temporary permission for the storage of material. | <p>Enforcement action is being reserved.</p> <p>The stockpile height is being held in check.</p> <p>I would seek Members' support however, for the serving of an Enforcement Notice.</p> <p>I shall keep the Committee informed on progress at this sensitive location.</p> |

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 | Tunbridge Wells KCC/ TW/12/1694 The Skinners Kent Academy, Blackhurst Lane, Tunbridge Wells, Kent. TN2 4PY. (Member: Chris Hoare) | Alleged breach of permitted construction hours of. 08.00 and 18.00 Monday to Friday, and 09.00 to 13.00 on Saturdays, with no works on Sunday or Bank Holidays. | To ensure strict compliance of these hours in the interests of local amenity and the integrity of planning law. | The applicant / Project Manager and Head of Property and Infrastructure have been formally reminded of the need for strict planning compliance. | The alleged breaches were further reported to the Local Member and the then Cabinet Member for Education Mike Whiting, in line with the County Council's internal enforcement protocol. No recurrence has been reported. Nevertheless, tight vigilance will be maintained. |

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

Agenda Item 10

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